SERVING CANADIANS

REVIEW OF PROVINCIAL AND TERRITORIAL DOMESTIC VIOLENCE LEGISLATION AND IMPLEMENTATION STRATEGIES

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The views expressed in this report are those of the author and do not necessarily represent the views of the Department of Justice Canada.

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Table of Contents

Page

Acknowledgements iii

Executive Summary v

Part 1: A Review of Key Implementation Issues 1

1.0 Background 3

1.1 Scope and limitation of the analysis 3

1.2 Strategies and issues explored 3

1.3 How documents are referenced in this paper 3

2.0 Consultation Process 5

3.0 Infrastructure Requirements 7

3.1 Teamwork required for an effective emergency response 7

3.2 Role of the Justice of the Peace 7

3.3 Safety planning and follow-up capabilities 8

3.4 Telecommunications capacity and methods of recording evidence 9

3.5 Centralized staff support and other human resource operating requirements 9

4.0 Training 11

4.1 Orientation 11

4.2 Topics covered and materials used 11

4.3 Delivery of training sessions 12

5.0 Public Eduction and Information Materials 15

5.1 Public awareness 15

5.2 Written materials 15

6.0 Impact Issues 17

6.1 Impact of victim assistance order (VAO) 17

6.2 Relationship to mandatory charge policies 17

6.3 Seizure of firearms 18

Part 2: A Comparison of Key Clauses of Domestic Violence Acts and Regulations 19

Legend for Table 1: A Comparison of Keys Clauses of Domestic Violence Acts and Regulations 21

Appendix A: List of Reference Documents 73

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Executive Summary

At the time of this study, domestic violence legislation is operative in five provinces and territories with proclamation dates shown below.

Saskatchewan	*The Victims of Domestic Violence Act*	(Feb. 1995)
Prince Edward Island	*The Victims of Family Violence Act*	(Dec. 1996)
Yukon	*Family Violence Protection Act*	(Nov. 1999)
Alberta	*Protection Against Family Violence Act*	(Jun. 1999)
Manitoba	*The Domestic Violence and Stalking Prevention, Protection and Compensation Act*	(Sep. 1999)

Ontario introduced a similar bill for first reading on September 27, 2000, but the bill is not discussed in this study.

In general terms, the purpose of domestic violence legislation is to provide victims of domestic violence quick and effective access to the justice system to achieve early intervention. This is typically done through some form of *ex parte* emergency order that can be made by a justice of the peace, later confirmed by a court. The orders typically centre on provisions such as granting the victim exclusive occupation of the residence, removal of the respondent from the residence, supervised removal of personal belongings to ensure the victim's safety, and restraints on communication or contact with the victim.

Most Acts also contain longer term orders to assist victims, and some allow for warrants permitting entry if there are grounds to believe a victim is in the residence and entry is being denied by the respondent.

Background to Study

Focus Consultants contracted with the Federal Department of Justice to gather materials and undertake preliminary analyses pertaining to domestic violence legislation in the five jurisdictions listed above. The immediate user of this information is the Government of Nunavut; the immediate purpose is to facilitate a decision as to whether similar legislation might be appropriate for Nunavut. It was foreseen, however, that other jurisdictions might also find the document useful.

The overall product is organized in three parts:

- **Part 1**: A review of key implementation issues associated with developing and implementing domestic violence legislation, wherever possible with applicability to the geography and culture of Nunavut's population. Only Part 1 is systematically addressed in this executive summary.
- **Part 2**: A comparison of the legislation and regulations pertaining to domestic violence legislation in the five jurisdictions, including reference to legal cases that relate to the legislation.
- **Part 3**: A series of appendices containing legal documents, implementation materials and evaluation documents pertaining to domestic violence legislation in the five jurisdictions. These materials are only available in binders for the Government of Nunavut and Justice Canada, and have not been electronically incorporated in this document.

The analysis in Part 1 addresses five areas related to the development of domestic violence legislation: consultation processes, infrastructure requirements, training, communication, public legal education, and impact issues.

Consultation Processes Prior to Domestic Violence Legislation

The purposes of consultation in the jurisdictions were:

- to assess the need for legislation and identify the gaps in the response to domestic violence that it could fill;
- to assess the capacity and willingness of communities to be effective partners in implementing the legislation; and,
- to elicit concerns or responses about specific features of the proposed legislation.

The issue of capacity and willingness is critical in a context such as Nunavut. A consultation process may lead smoothly to legislation. However, equally likely, it

could create an understanding that legislation should be delayed until the infrastructure necessary to support victims under the Act can be developed.

Infrastructural Requirements

Several features of models in the five jurisdictions are of particular importance in understanding infrastructure requirements for the Government of Nunavut.

- The emergency order requires teamwork among several players.
  - These include justices of the peace, servers, peace officers or designated persons, court officers (registrar or judge) and a support service worker for the victim.
  - The training in the jurisdiction has evolved from simply providing information about the Act, to defining the technical requirements of individual players, to reinforcing the interconnections between players.
  - Jurisdictions need to assess the feasibility of having all these players and interconnections in place when considering legislation.
- The role of the justice of the peace (JP) is critical in the process.
  - This requires that for jurisdictions considering similar legislation, the network of JPs be well-developed.
- Safety planning and follow-up capabilities are essential for the victim.
  - This is likely the single most critical infrastructure requirement to support this legislation.
  - This can be especially difficult in isolated communities. It is not just a matter of policing, but also of protecting the victim emotionally. Without this capacity, alternatives to this legislation or a longer term developmental process should be considered.
- Telecommunications capacity and methods of researching evidence are essential for an emergency order.
  - These include phone, fax and/or e-mail for applying for an emergency order.
  - Application forms, JP checklists and service information sheets need to be developed.
  - Technology to locate JPs (e.g., 1-800 numbers with automatic transfers, call centres) are essential.
- Some form of central staff support is required for long term success.
  - Ongoing tasks involve monitoring (even tracking of orders can be very difficult), evaluation, training and public education.

Training

Two broad-scale orientations in training are:

- Training is an ongoing function rather than a one-time process (because of staff turnover, the emergence of new needs, orientations and issues, and amendments to the Act); and,
- training is as much about assessing and developing capacity as it is about providing information.

Key topics covered in training materials include:

- team work between multi-disciplinary partners;
- domestic violence legislation is one tool among many; how to determine which tool is most appropriate;
- dynamics of domestic violence and the need for understanding and compassion for the victim;
- protection of victim as a paramount consideration;
- clause-by-clause analysis of the Act and Regulations;
- step-by-step discussion of procedures for each type of worker, and forms that need to be completed; and,
- role play or discussion of scenarios.

Delivery of training has emphasized:

- delivery by a team (e.g., by police officer and family violence specialist);
- use of a "train the trainers" model;
- coverage of a wide range of participants, either together or separately;
- length has varied by type of audience, but generally is two or three days; and,
- the need for follow-up (either as formal training or as information sessions).

Public Education and Information Materials

Evaluation reports in Saskatchewan and PEI stated that more public education was necessary.

Written materials produced thus far have consisted of:

- pamphlets about the Act generally;
- information sheets for victims and respondents about specific things to know or prepare for in relation to an order; and,
- multi-page guides about the victim assistance order.

Impact Issues

The following three issues are derived from evaluation studies in Saskatchewan and PEI and do not cover issues already addressed above.

- The victim assistance order (as opposed to the emergency order) has received little use in PEI and Saskatchewan but anecdotal evidence from Winnipeg suggests a much higher rate of usage. The main reasons for lesser use in Saskatchewan and PEI appear to be that:
  - lawyers feel it does not provide significant new options to existing legislation;
  - they would prefer to use legislation that can also deal with custody, maintenance and restraining orders as a "whole package"; and,
  - legal aid is not available for a victim assistance order unless the client meets financial eligibility requirements.
- Findings about the impact of domestic violence legislation on mandatory charging in spousal assault cases in Saskatchewan are somewhat equivocal. On balance it appears that rather than being used as an alternative to charging, the legislation is being used where there is insufficient evidence to support a charge, or unlikelihood of conviction because a victim would be unlikely to be cooperative in criminal proceedings.
- Seizure of firearms from a respondent (i.e., the perpetrator of violence) is usually seen as a preventive measure to protect the victim. In some Northern jurisdictions firearms are often essential for earning a livelihood, and domestic violence legislation may be better able to accommodate victims' and respondents' specific needs than would a separate court order.

Part 1: A Review of Key Implementation Issues

1.0 Background

1.1 Scope and limitation of the analysis

Focus Consultants has contracted with the Federal Department of Justice to gather materials and undertake preliminary analyses pertaining to domestic violence legislation in five jurisdictions for the Government of Nunavut, which is contemplating similar legislation. The primary goal at this point is to gather and organize relevant materials in order to facilitate decision-making by Nunavut.

Part 1 of this report examines the strategies and issues associated with developing and implementing domestic violence legislation, wherever possible with applicability to the geography and culture of Nunavut's population. Part 2 compares the legislation and regulations pertaining to domestic violence in each of the five jurisdictions. The Appendix lists the relevant documents consulted in preparing this report. It includes legal documents, implementation materials and evaluation documents pertaining to domestic violence legislation in the five jurisdictions.[1]

The analysis in this paper is based primarily on review of the documents listed in the Appendix, and incidental contacts with each jurisdiction, rather than on systematic interviews with key respondents. It is anticipated that if Nunavut decides to proceed with legislation, more systematic contacts will be made with other jurisdictions about specific issues.

There are other factors which limit the scope or depth of this analysis. The first is that three of the five jurisdictions – Alberta, Manitoba and the Yukon – only proclaimed their legislation in 1999, and so have a relatively brief history and only anecdotal or limited monitoring data pertaining to implementation results. Saskatchewan (February 1995) and Prince Edward Island (PEI) (December 1996) have the oldest proclaimed legislation, and both have generated evaluation reports (see Appendix A.8). Nonetheless, there has been considerable information-sharing and cross-fertilization between the "older" and "newer" jurisdictions, which is reflected both in the legislation, legal forms and training procedures.

The second factor is that although some lessons can be learned about the implementation of the act in small, rural and/or isolated communities, there is little clearly articulated analysis of how the act has worked and/or been used by Aboriginal populations.

Thirdly, few materials were available about consultation processes in the developmental stages in each jurisdiction. They were often in the form of briefing notes and these are not readily available. Furthermore, in some jurisdictions consultation processes were undertaken by staff persons who are no longer in the same positions.

Fourthly, the materials were gathered in the space of several weeks in August and September, 2000. In some situations it was not possible for jurisdictions to provide all documentation in this short time period.

1.2 Strategies and issues explored

Five areas are addressed in this analysis:

1. consultation processes;
2. infrastructure requirements;
3. training;
4. communication and public legal education; and,
5. impact issues.

Each is dealt with in Chapters 2.0 to 6.0 of this paper.

1.3 How documents are referenced in this paper

Findings or observations in this paper are referenced in parentheses indicating the appendix sub-number (e.g., A.1, A.2) and – depending on the nature of the material – jurisdiction, author (if appropriate), year of publication (where available) and page number where the referenced information is located. Two evaluations in Saskatchewan by Prairie Research Associates are frequently cited, and are referenced as "Saskatchewan," followed by the year in which they were written (1996 or 1999).

[1] The report prepared for Nunavut Justice comprises three binders which include copies of all documents listed in Appendix A.

2.0 Consultation Process

The term consultation as used here refers to consultation processes prior to proclamation of the act. There were several purposes of consultation in the jurisdictions:

- assessing the need for legislation and gaps in the response to domestic violence that it could fill;
- assessing the capacity and willingness of communities to be effective partners in implementing the legislation; and,
- eliciting concerns or responses about specific features of the proposed legislation.

In each of the jurisdictions there was an advisory committee and/or working group established to guide the development of the legislation. However, the nature of the consultation process and breadth of groups consulted varied.

Saskatchewan held meetings with 62 agencies involved in responding to domestic violence, including, for example, police, crisis intervention services, family services, Aboriginal service delivery agencies, tribal councils, safe shelters, sexual assault centres, hospitals, inter-church networks and seniors' abuse groups (Saskatchewan 1996, p.3).[2] The Yukon held meetings for 2-2.5 hours with small groups (4-15 persons) in eight communities, including RCMP, clergy, shelter workers, Victim Services workers, probation, Yukon College, band workers and social workers (Appendix A.5, Consultation Statistics). In Whitehorse they sent out a discussion package to service providers, which asked for responses on specific questions (Appendix A.5, *The Family Violence Protection Act* - "Providing Options for Victims"). Alberta sent a discussion paper to 3,000 parties and received 120 submissions (63% from organizations, the rest from individuals).

Using discussion papers can be a useful method of eliciting feedback, but there are two potential drawbacks to this approach in the Nunavut context. First, it is most useful where there are a large number of formal organizations to respond to this method, which is less the case in Nunavut than in Alberta. Secondly, in order to assess the capacity and willingness of communities to be effective partners, it is necessary for a working group to have a presence in the community during the consultation stage. Many of the concerns that Saskatchewan received during its consultation stage related to how victim safety could be ensured in rural or remote communities where there was no immediate police presence and/or a lack of support services. In Nunavut the concerns would have to be assessed and addressed on a community by community basis.

As will be noted in Chapter 3, an effective infrastructure to support victims is essential to the successful implementation of domestic violence legislation. The consultation process acts not only as feedback about the legislation, but also can be the first step to help build capacity within communities.

One potential outcome of the consultation process would be to revise proposed legislation based on feedback, then proceed with legislation. Another outcome might be to delay the legislation and embark on a longer term capacity-building process to identify individuals and/or to develop victim services groups that could support the legislation and victim requirements in each community.

In summary:

- consultation is not just for feedback about details of the legislation;
- consultation is about community capacity; and,
- consultation may lead to a longer developmental process that delays legislation, but builds the infrastructure necessary to support victims under the Act.

[2] "Saskatchewan (1996)" will be used in this report to refer to Prairie Research Associates, Inc., *Review of the Saskatchewan Victims of Domestic Violence Act*, Ottawa: Research and Statistics Division, Department of Justice Canada, 1996 (WD1996-6e).

3.0 Infrastructure Requirements

Several features of models in the five jurisdictions are of particular importance in understanding infrastructure requirements for the government of Nunavut:

- the emergency order requires team work among several players;
- the role of the justice of the peace is critical in the process;
- safety planning and follow-up capabilities are essential for the protection of the victim;
- telecommunication capacities and methods of recording evidence are essential for an emergency order; and,
- some form of central staff support is critical for long term success.

Each of these factors is discussed in greater detail below.

3.1 Teamwork required for an effective emergency response

As shown in Figure 1, there are many players involved in securing and enforcing an emergency order. Each player has to have a clear understanding of his/her role. Equally important, an effective infrastructure requires that these players act together. Over time the training in the jurisdictions has evolved first from simply providing information about the act, secondly to clearly defining the technical requirements of individual players and thirdly, to reinforcing the notion of the interconnections between players. All three elements are important.

The first two of the team work requirements indicated in Figure 1 concerns shared understandings or knowledge. A Saskatchewan evaluation concluded that problems in three areas hampered the implementation of emergency orders:

- a lack of consistency in the interpretation of an emergency;
- lack of a shared understanding of the situations in which orders are applicable; and,
- insufficient familiarity with the dynamics of family violence (Saskatchewan, 1996, Executive Summary).

There are obvious implications in terms of training in each of these areas, but also in terms of coordination. For example, in Saskatchewan some Justices of the Peace (JPs) complained that people assisting applicants were usurping the JPs' role by failing to request orders in situations where they would have been appropriate. Other JPs complained of the opposite problem: police or designated workers were just referring every case and not doing enough interpretation to screen out inappropriate cases (Saskatchewan, 1999, p 23).[3]

The remaining teamwork requirements concern specific actions of players or use of technology, and are dealt with in the sections below.

3.2 Role of the Justice of the Peace

With the single level trial court system in Nunavut, the role of the Justice of the Peace is achieving increased prominence and significance. On the one hand this suggests a good fit with the major role played by designated JPs in regard to emergency orders in the five jurisdictions. On the other hand, two problems may emerge. The first is that JPs may already be on a steep learning curve with their new responsibilities, and may not be able to assume yet another at this point in time. Secondly, domestic violence is an extremely sensitive area, and in an isolated community the JP could be related to one of the parties. At a minimum this would require a system of back-up JPs from other communities to avoid conflict of interest, and also the use of telecommunications to initiate an application.

[3] "Saskatchewan (1999)" will be used in this report to refer to Prairie Research Associates, Inc., *A Further Review of the Saskatchewan Victims of Domestic Violence Act*, Ottawa: Research and Statistics Division, Department of Justice Canada, WD1999-1e.

3.3 Safety planning and follow-up capabilities

This is likely the single most critical infrastructure requirement to support this legislation. Contact persons in most of the jurisdictions expressed concern over whether in isolated communities in Nunavut the safety of victims could be ensured if an emergency order was made to permit sole occupation of the residence. They were not implying that domestic violence legislation was an unworthy goal, rather that it be a long term goal. More immediate goals would be, for example, to develop a victim services network.

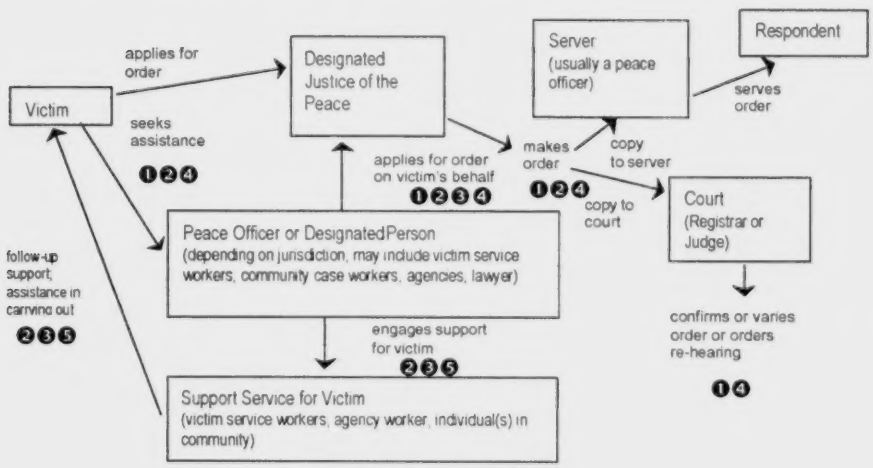
In Alberta, training with police or RCMP emphasizes two critical safety-planning questions up front when considering an emergency protection order:

1. Can police ensure a timely response to protect the victim if the respondent breaches the order?
2. Are the police confident that the respondent will respect the order?

If the answer to these two questions is negative, then the police will elect to use another remedy. Some JPs in the Saskatchewan evaluations said that Emergency Intervention Orders were not appropriate in areas where there is a lack of policing services. Desirable as it might be to have the victim remain in her own home, they felt in the interests of safety it was better that she be out of the home and possibly out of her community (Saskatchewan 1996, p.26). In terms of Nunavut, further development of a safe home system may be a more realistic alternative.

Safety is not just a matter of policing, but also involves protection of the victim emotionally. Victim services, agency services, safe homes or the assistance of other key people in the victim's life are usually necessary to help the victim feel secure and plan her next steps. These services often act in tandem with police services, who do not have time to do follow-through with the victim. In PEI, for example, 66% of cases with emergency orders have involved victim services workers as follow-up (PEI 1998, p.3).[4] It may be relevant to explore whether in Nunavut health nurses or community justice workers may be able to play some role as a designated party that could bring an application to a JP on behalf of a victim.

Figure 1: Processes and Teamwork Requirements in Emergency Applications


Victim
applies for order
Designated Justice of the Peace
Server (usually a peace officer)
Respondent
serves order
seeks assistance
❶❷❹
applies for order on victim's behalf
❶❷❸❹
makes order
copy to server
❶❷❹
copy to court
Court (Registrar or Judge)
Peace Officer or Designated Person
(depending on jurisdiction, may include victim service workers, community case workers, agencies, lawyer)
follow-up support; assistance in carrying out
❷❸❺
engages support for victim
❷❸❺
confirms or varies order or orders re-hearing
❶❹
Support Service for Victim
(victim service workers, agency worker, individual(s) in community)
Key teamwork requirements
❶ knowledge: shared understanding of what constitutes an emergency
❷ knowledge: shared understanding of dynamics of family violence
❸ action: safety planning to protect victim
❹ knowledge, technology: clear documentation and communication of evidence
❺ action: protection of victim, assistance to victim

[4] "PEI 1998" will be used in this report to refer to Bradford and Associates, *Final Report: Victims of Family Violence Act Monitoring Study*. Prince Edward Island, 1998.

The capacity of a community to do safety planning and ensure the victim's protection is one of the key elements that should be assessed during the consultative phase, as a way of deciding on the feasibility of domestic violence legislation in Nunavut. It should also be a critical component of training and of ongoing monitoring.

3.4 Telecommunications capacity and methods of recording evidence

Immediate access to the JP is essential in applying for emergency orders. All jurisdictions allow for the use of telecommunications (phone, fax, e-mail) in the application process, as well as in-person applications. Whereas telecommunications are a great advantage in obtaining a quick decision, they can create difficulties in terms of communication of evidence from victim to police (or other designated party), from police to JP, and from JP to judge. In other jurisdictions it has also been important to gather other information such as where to serve respondents with documents, although in Nunavut the size and isolation of most communities may not make this as difficult an issue, as the respondent may often be known to the peace officer.

The five jurisdictions with domestic legislation have developed the following forms in most or all cases to facilitate documentation and transmission of evidence and location of respondents:

- application forms;
- JP checklists; and,
- service information sheets.

Samples of these forms, together with a variety of other more standard court forms are listed in Appendix A.

A second issue related to technology is the method of locating the JP. In Saskatchewan a "1-800" number is used and it automatically transfers the call to the first available JP, all of whom carry a cellular phone when on duty. The JP could reside anywhere in the province and is not necessarily in the same community as the victim. This system appears to work well, and as in all jurisdictions, is available 24 hours a day, 7 days per week.

PEI has a message centre that is accessed by designated persons. The centre maintains a list of designated JPs on call for the week, as well as a system of recording which JP took the most recent call. An available JP is then paged. The PEI jurisdictional contact reports that this system has worked relatively well, but there have been some frustrating waits for police officers when the operator has failed to call the correct or available JP. Since the system is not automated, it is susceptible to human error.

The Yukon does not have the technology to reach hand-held cellular phones outside of Whitehorse so, apart from Dawson City, the four JPs up to now have all been in Whitehorse. However, the cell phones have frequently not been effective when the JP is in a building, so the territory will soon change to a "1-800" number that connects to the JP's beeper. It was also felt that a cell phone was not a secure way to take evidence.

Obviously in Nunavut an appropriate technology would have to be proven feasible before an emergency order concept could be implemented.

3.5 Centralized staff support, and other human resource operating requirements

Although initially the true human resource requirements to develop and implement domestic violence legislation may be masked by adding extra tasks to the duties of existing staff, it is important to realistically assess ongoing human resource requirements. PEI described its resource utilization as follows:

- working group and sub-committees added tasks to existing duties during development and implementation;
- small project funding dollars were accessed for initial research and consultation, drafting of regulations and forms, and for an internal monitoring study;
- RCMP provided funds for training and Saskatchewan contributed the assistance of their training officer. Police absorbed release time and travel for training of their officers; and,
- JPs were paid approximately three hours per application (Appendix A.4, PEI, Summary of Implementation Process).

In telephone conversations with Focus Consultants the PEI contact stressed that it would be more effective to have a one-half full time employe (FTE) staff position to do problem-solving, training, monitoring/evaluation and public legal education. In correspondence with Focus Consultants, the Yukon contact suggested that

Nunavut would require at least one staff person on a full-time basis to assist with the consultation and implementation and then later someone part-time for ongoing training, monitoring and evaluation. All jurisdictions have emphasized that these requirements are ongoing rather than one-time tasks.

These types of requirements also assume that there is already a certain amount of infrastructure in the form of RCMP presence, victim services and/or safe houses in the communities and a capacity to serve documents, as discussed in Section 3.3.

Other typical operating costs would include education materials, training materials and associated workshop costs (travel, accommodation, meals, facilities), cell phones and/or beepers for JPs, fax machines and materials for JPs, costs for a paging service, and costs associated with ongoing maintenance of forms required for orders, service, etc. Manitoba has developed standard clause formats for developing certain documents (see Appendix A.2). We were informed by the Manitoba contact that Nunavut has already made some inquiries about Manitoba's standard clause capabilities.

There are also resource implications in terms of legal assistance. All jurisdictions have reported very low usage of Victim Assistance Orders (VAOs). They are more difficult to obtain than emergency orders and are bewildering legal processes for the victim. Legal Assistance is currently not available in PEI for VAOs or re-hearings and review of emergency orders unless clients meet financial eligibility requirements. By contrast, in Alberta a victim does not have to qualify for legal aid to receive assistance with a protection order.

Another important function of centralized office support is to ensure that emergency orders and victim assistance orders can be tracked effectively for research purposes. Both Saskatchewan's evaluation and PEI's monitoring reports identified major difficulties in undertaking research.

These included:

- the lack of a common identification system for emergency orders to facilitate cross-referencing of police and court files;
- inconsistencies in police files pertaining to orders; and,
- absence of a straightforward means of tracking breaches (which are recorded as breach of any type of court order rather than of emergency orders specifically) (Saskatchewan, 1999, pp.6-7, 32; PEI, 1998, p.27).

A Manitoba jurisdictional contact told Focus Consultants that prevention orders (called victim assistance orders in other jurisdictions) were exceedingly difficult to track because they are not distinguished from other court orders.

4.0 Training

This section describes key training issues in relation to three topics:

- broad orientation or philosophy of training;
- topics covered and materials used; and,
- delivery.

4.1 Orientation

Two broad-scale orientations in training are described below.

- ***Training is an on-going function rather than a one-time process.*** Although three of the five jurisdictions have had only approximately a year of operation, there is already a general appreciation that training will be an on-going rather than a one - time process. This is in part because of staff turnover - especially within RCMP detachments, but also in all roles - with a resultant loss of teamwork potential unless workers are constantly being trained. The need for on-going training is also because new needs, orientations and issues are always emerging. For example, victims in most jurisdictions have made little use of the Victim Assistance Order, so subsequent training has or will give this order more focus. Amendments to the Act, such as in PEI, have required training or at least information updates. New training may focus on developing more consensus around such issues as what constitutes an emergency.
- ***Training is as much about assessing and developing capacity as it is about providing information.*** This theme has already been touched on above in Chapter 2.0 (Consultation Process). However, it is becoming more of a focus in training as jurisdictions respond to the reality of staff turnover, a more comprehensive awareness of the range of players involved, and the need to constantly reinforce partner relations and teamwork between players (see also the previous point). This broader orientation is being systematically developed in Saskatchewan in a comprehensive 445 page training manual. It will emphasize a multi-disciplinary approach and complementary resources for all parties involved. The Saskatchewan contact stated that workshops in each community will explore in a multi-disciplinary group such issues as:
  - the resources available in the community;
  - the resources required by designated workers (i.e., workers officially designated to help a victim initiate an application) in order to help the victim; and,
  - in regard to Native communities, what they might need to help the designated worker in his/her process of assisting an Aboriginal victim.

This developmental approach in no way precludes the presentation of information about the Act, family violence and individual roles, rather it is the base on which this information is built.

4.2 Topics covered and materials used

Appendix A.6 contains a sample of readily available training materials from three of the jurisdictions. Saskatchewan's training manual, as discussed in the previous section, will be an additional comprehensive resource.

A review of the available materials and discussions with jurisdictional contacts indicate that a number of topics have been emphasized. These are grouped below under "Conceptual points" and "Information about the Act, regulations and procedures".

Conceptual points

- the need for an approach based on teamwork between multi-disciplinary partners (see discussion in Section 3.1);
- domestic violence legislation is one tool among many; it is essential to know when its use is appropriate or not appropriate

  - this involves an understanding of other orders that may be available and the type of situations in which they may be more appropriate or effective than using an emergency order or victim assistance order;
  - it also involves risk assessment and an understanding of the victim's safety needs (see discussion in Section 3.3).
- the dynamics of domestic violence
  - both the PEI and Yukon training documents contain useful information on domestic violence (Appendix A.6). The PEI materials also include the text of a presentation called "Family Violence: The Issues" which explores stages in leaving an abusive relationship and suggests particular provisions of an order that could be important to a victim at a particular stage;
  - the main thrust of this type of material is to build understanding of and compassion for the victim, who can often display confusion, denial, anger and apparent contradictory behaviours towards those who are trying to assist her. In a monitoring study in PEI, some victims complained of a lack of police compassion; the author recommended the development of a quality assurance program to address this type of response (PEI, 1998, pp.20, 27);
- protection of the victim is a paramount consideration
  - this has been discussed in regard to safety planning in Section 3.3 above. The vulnerability of victims in remote communities is of course highly relevant in Nunavut. Other issues such as the economic dependence of the victim on the respondent may also affect whether a no-contact order is complied with by the victim (Saskatchewan, 1999, p.26).

Information about the Act, regulations and procedures

- clause-by-clause analysis of the Act and Regulations;
- step-by-step discussion of procedures for each type of worker, and forms that need to be completed; and,
- scenarios.

Examples of these materials are listed in Appendix A.6. The Yukon section contains an annotated Act, whereas the PEI and Manitoba materials weave the discussion of the Act into an examination of procedures and forms.

Scenarios (see examples in PEI and Yukon materials) are a critical part of training. They require participants to consider whether it is appropriate to pursue an order under the domestic violence legislation, what factors are relevant for safety planning, what provisions may be appropriate if pursuing an order, whether they have authority, and what forms would be completed. They can be used either in role playing formats or small group discussions.

The Yukon contact commented that every time a scenario was discussed in a different group or community, different orders or provisions resulted. This was not only a comment about inconsistency, i.e., that discussion needs to take place to reach common understandings about appropriate responses. It was also emphasizing that in any given community the constellation of services, personnel or resources can be different and require different solutions.

In Saskatchewan some participants felt that first-time training tended to emphasize the emergency order at the expense of the victim assistance order or warrant of entry (Saskatchewan, 1999, p.2). This may be one factor in the small number of VAOs and negligible use of the warrant of entry, which could be addressed through training.

4.3 Delivery of training sessions

Several points were emphasized by jurisdictional contacts when discussing the delivery of training:

Delivery by a team

In Saskatchewan, the team for training police officers in 1995 consisted of a police officer and a family violence specialist. The purpose of a team approach is to facilitate improved understanding and cooperation between community and police. In PEI, police training teams consisted of a police/RCMP officer, Victim Services staff and Transition House Outreach workers. Ongoing training in the Yukon will consist of an RCMP member and a Victim Services worker.

"Train the trainers" model

A "train the trainers" model has been used for police/RCMP officers in Saskatchewan, PEI and Alberta

to expand the knowledge base and conserve resources. This format has been used for other types of workers besides police in some jurisdictions. In its revised training format that is about to be implemented, Saskatchewan will be using a "train the trainers" model (again with an RCMP and community worker as a team) which will ultimately deliver community-based training for all relevant workers in a multi-disciplinary workshop.

The use of a "train the trainers" model in Nunavut would depend on whether community trainers could be identified with suitable standing in the community, whether they had the requisite skills to be trainers (as opposed to workers), and whether they would be remaining in their community for a reasonable period of time.

Range of participants in training sessions

Depending on jurisdictions, training has been done with some or all of the following types of participant, either together or as distinct audiences: police/RCMP officers, military police (Alberta), victim service workers, JPs, court registry staff, transition house workers, prosecutors, correctional services staff, child welfare staff, community agencies, judiciary, private bar, and sheriffs.

Location and length of training

"Training the trainer sessions" – where applicable – have generally been held centrally. In Alberta they have taken two days. In Saskatchewan the new training-the-trainer sessions will be three days.

Training of JPs has usually consisted of two day sessions in one or two centres. Training of police by the newly-trained trainers has been done in each region of a given jurisdiction in a one-day session. Other specialized audiences have also required one-day sessions.

Follow-up

As noted above, there is an appreciation that ongoing information sessions or formal training will be required. For example, since their pre-proclamation training, Alberta has been holding a series of "technical meetings" in regions with a multi-disciplinary audience of police/RCMP, court workers, lawyers/legal aid, JPs, victim services workers and community agencies. These meetings review the experience of participants with the Act and troubleshoot issues identified, as well as provide information on the legislation, dynamics of domestic violence, how to request orders, how to do risk assessments, and how to deal with breaches.

Videotapes as resources

Several jurisdictions have made videos of training services as supplementary resources. Although they should not be seen as a replacement for training, they may be useful for updating RCMP officers or community members, or as a transitional training device if there is a loss of a key community member.

5.0 Public Eduction And Information Materials

Since this report was primarily oriented to gathering readily available materials, the following points do not reflect the use of television, radio or newspaper as media for public education on domestic violence legislation.

5.1 Public awareness

Both the Saskatchewan (1999) and PEI (1998) evaluation reports state that more public education was needed about the legislation, but in neither case were specific suggestions made as to appropriate methods or channels. In Saskatchewan this recommendation was based on interviews with the key parties involved in helping victims to access orders. In PEI it was based on the fact that half the victims who obtained emergency orders had not heard about them through any public channels.

The majority of the victims who had heard about the legislation had done so through transition shelters. Front line workers in government departments had generally not been an active source of information. In Nunavut, community radio, television, community health nurses, safe houses (where they exist) and community justice workers may be useful conduits of information to the community.

5.2 Written materials

Sample written materials about the Act are listed in Appendix A.7. They consist of:

- pamphlet about the Act generally;
- information sheets for victims and respondents about specific things to know or prepare for in relation to an order; and,
- multi-page guides about the Victim Assistance Order (VAO).

Whereas the first two items are useful without being too technical, the VAO guides may not be sufficient to help any but the most literate and confident of victims. It is generally conceded that the VAOs have not been heavily used and that most victims would need legal assistance to make applications for orders. If legal assistance is available, the most useful public education material would consist of a one-sheet description of information or evidence that would be helpful for clients to gather for their lawyer. Although half of a small number of victims interviewed in PEI (PEI, 1998, p.20) found the VAO information useful and understandable, only two applied for an order, and one had great difficulty doing so.

6.0 Impact Issues

The following issues concerning the impact of provincial and territorial domestic violence legislation are primarily drawn from the evaluation and monitoring documents included (i.e., Saskatchewan 1996 and 1999, and PEI 1998). Other research findings have been incorporated in the analysis of legislation and in earlier sections of this document.

6.1 Impact of victim assistance order (VAO)

This order has received little use in Saskatchewan and PEI. Reasons for this appear to be:

- most lawyers feel the VAO does not provide significant new options to ones already available in other legislation (Saskatchewan 1996, p.33);
- most lawyers would prefer to use legislation that can also deal with custody, maintenance and restraining orders as a "whole package" (ibid);
- legal aid is not available for a VAO unless the client meets financial eligibility (PEI, 1998, p.27); and,
- more emphasis and training is required to draw attention to this order (Saskatchewan, 1999, p.x; PEI, 1998, p.26).

Although no formal statistics on the volume of this type of order are available in Manitoba,[5] informally the Director of Judicial Support estimates that there are approximately six per week in Winnipeg. They are very difficult to trace because in terms of recording they are usually mixed in with other orders under the *Divorce Act* or *Family Maintenance Act*, and are seldom stand-alone orders under the *Domestic Violence and Stalking Prevention, Protection and Compensation Act*. However, the volume in Winnipeg alone is considerably higher than in Saskatchewan even at half the estimate. We cannot undertake a meaningful analysis of this difference, but simply note that it should not be assumed that a VAO is not a useful order. Legislation introduced in Ontario for first reading on September 27, 2000, puts an "intervention order" – the equivalent of the VAO – first in the legislation, followed by the emergency order. This may signal an intent to give this type of court order more prominence than in the other five jurisdictions.

6.2 Relationship to mandatory charge policies

Saskatchewan evaluation reports are equivocal about the impact of the Act on mandatory charging. While the directive about mandatory charging in spousal assault cases has not changed, the actual practice of individual officers is somewhat more fluid. The first Saskatchewan review (1996) could not state with certainty the nature of the impact, but cited some cases in which there appeared to be sufficient evidence to lay a charge, but only an emergency order was used. The researchers felt it was probable, though, that "legislation is providing an opportunity to assist victims when prosecution is unlikely" (p.37).

In the second Saskatchewan review (1999), 10 of 13 officers said the legislation has no effect on the charging directive but 12 felt it has changed police practice, "either by providing police with an additional tool to use in dealing with domestic violence, or by making police more aware of domestic violence" (Saskatchewan 1999, p.26). Half the officers said they used orders "in instances where there is not enough evidence to lay charges, but it is clear that some action is required. Similarly, a few officers said they use orders when circumstances demand some intervention but the victim does not wish to pursue criminal proceedings" (p.25). This type of situation is similar to that found in Aboriginal communities in a 1996 study on mandatory charge in the Yukon.[6] Victims supported mandatory charges, but did not necessarily want their spouses in prison; they wanted something decisive to happen that would protect them as victims. At the time the *Family Violence Protection Act* was not in force.

[5] In Manitoba VAOs are called "prevention orders".

[6] Focus Consultants Inc., *Spousal Assault and Mandatory Charging in the Yukon: Experiences, Perspectives and Alternatives*, Ottawa: Research and Statistics Division, Department of Justice Canada, WD 1996-3e.

6.3 Seizure of firearms

Seizure of firearms from a respondent (i.e., the perpetrator of violence) is usually seen as a preventative measure to protect the victim. One jurisdictional contact emphasized that firearms are often used as part of a suicide threat, and so their seizure can be seen as a suicide prevention measure as well.

In Nunavut firearms are often essential for earning a livelihood. In the 1996 Yukon study there was a case in which an Aboriginal victim in a spousal assault case was dissatisfied that her offending spouse had been prohibited from possessing firearms. She felt the decision was not related to her own sense of vulnerability, it deprived her husband of a means of livelihood, and also made it difficult to pass on traditional outdoor teachings to her son. Domestic violence legislation, while providing for firearms seizure, may better be able to accommodate Nunavut victims' very specific needs in this type of situation.

Part 2: A Comparison of Key Clauses of Domestic Violence Acts and Regulations

This section compares key clauses of statutes and regulations in the five jurisdictions that have developed domestic violence legislation.[7] These are (proclamation dates are shown in parentheses):

Saskatchewan	*The Victims of Domestic Violence Act*	(Feb. 1995)
Prince Edward Island	*The Victims of Family Violence Act*	(Dec. 1996)
Yukon	*Family Violence Protection Act*	(Nov. 1999)
Alberta	*Protection Against Family Violence Act*	(Jun. 1999)
Manitoba	*The Domestic Violence and Stalking Prevention, Protection and Compensation Act*	(Sep. 1999)

Nineteen types of items are specifically compared in Table 1. The items may include anything from a sub section through to several sections of a statute and/or regulation, depending on the jurisdiction. The text reproduced in each column is taken from the *amalgamated* version of each statute as of September, 2000, so Table 1 does not show the development of each Act by tracing its amendments. Items 18 and 19 list only the section numbers rather than text from the statutes and regulations. Item 6 lists the types of orders contained in the Acts.

The commentary for each item highlights commonalties and/or differences between each jurisdiction. In some instances the commentary refers to case law, or explains the relation of one item in the Act to another. Interpretation of these items is that of the researchers, and should not be construed as a legal opinion, nor as the opinion of the jurisdiction concerned.

There are two intended uses of Table 1:

1. to enable the reader to quickly compare key items by means of the commentary provided. This should assist the reader in clarifying his or her own orientation on each issue.
2. to give easy access to the actual text of the Acts and regulations. This provides the reader with model clauses once an orientation has been decided.

[7] Ontario introduced Bill 117, an *Act to better protect victims of domestic violence* for first reading on September 27, 2000. Because it is at such a preliminary stage it has not been analyzed here, but is listed in Appendix A.1.

Legend for Table 1: A Comparison of Key Clauses of Domestic Violence Acts and Regulations

Item No. Item ..... Page

1. Definition of relationship 23
2. Definition of justice of the peace 24
3. Definition of domestic violence 25
4. Definition of residence 27
5. Definition of property 27
6. Types of order 27
7. Order No.1 (Emergency Orders) 28
   - 7.1 Who gives order and what constitutes an emergency 28
   - 7.2 Factors considered 29
   - 7.3 Provisions 30
   - 7.4 Notice of order 32
   - 7.5 Confirmation of order 34
   - 7.6 Review of order 37
   - 7.7 Duration of order 41
8. Order No.2 (Victim Assistance Order) 42
   - 8.1 Provisions 42
9. Application for an order 47
10. Confidential information / privacy 51
11. Effect on property 54
12. Order No.3 (Warrant Permitting Entry) 55
    - 12.1 How issued 55
    - 12.2 Authorization 56
    - 12.3 Who may apply 57
13. Punishment 57
14. Designated persons 59
15. How evidence taken 61
16. To whom copies of emergency order given 65

17. Serving documents 66
18. Other clauses in Act 71
18.1 Appeals 71
18.2 Rights 71
18.3 Designation of presiding JPs 71
18.4 Immunity 71
18.5 Provisions for review contained in order 71
18.6 Prohibition re frivolous complaint 71
18.7 Seizure of weapons 71
18.8 Seizure of property 71
19. Other clauses in regulations 71
19.1 Conduct of hearing of emergency application 71
19.2 Completion of order 71
19.3 Where material is forwarded to 71
19.4 Summons and notice for rehearing 71
19.5 Mandatory information in order 71

Table 1. A Comparison of Key Clauses of Domestic Violence Acts and Regulations

Item Compared	Jurisdiction				
	Saskatchewan (*The Victims of Domestic Violence Act*) (proclaimed Feb., 1995)	PEI (*Victims of Family Violence Act*) (proclaimed Dec., 1996)	Yukon (*Family Violence Protection Act*) (proclaimed Nov., 1999)	Alberta (*Protection Against Family Violence Act*) (proclaimed June, 1999)	Manitoba (*The Domestic Violence and Stalking Prevention, Protection and Compensation Act*) (proclaimed Sept., 1999)
1. Definition of Relationship	Comments: These clauses define the relationships of persons to whom domestic violence provisions will apply. The two principal definitions incorporate: 1) persons who have resided or are residing together or 2) persons who are connected as parents of a child. Clause 1(d)(v) in Alberta also specifically includes relationships of care pursuant to a court order. PEI and Alberta do not include same sex relationships, whereas the others do.				
	2(a) "cohabitants" means: (i) persons who have resided together or who are residing together in a family relationship, spousal relationship or intimate relationship; or (ii) persons who are the parents of one or more children, regardless of their marital status or whether they have lived together at any time;	1(a) "child" means a child who ordinarily or periodically resides with the victim, is under the age of eighteen years and unmarried, whether or not the child is a child of the victim and the respondent or of either of them, and includes a foster child or a child in actual care and custody of the victim; (d) "family relationship" means a relationship between: (i) a man and a woman who are or have been married to each other or have cohabited in a spousal or sexual relationship; or (ii) members of the same family.	1(a) "cohabitants" means: persons who have resided together or who are residing together in a family relationship, spousal relationship or intimate relationship; or (b) persons who are the parents of one or more children, regardless of their marital status or whether they have lived together at any time; "intimate companions" means persons who have, or have had with each other a continuing relationship of intimate companionship;	1(d) "family members" means: (i) a man and a woman who are or have been married to one another or who are residing or have resided together in an intimate relationship, (ii) persons who are the parents of one or more children, regardless of their marital status or whether they have lived together at any time, (iii) persons who reside together and are related to one or more persons in the household by blood, marriage or adoption, (iv) any children in the care and custody of a person referred to in subclauses (i) to (iii), or (v) persons who reside together where one of the persons has care and custody over the other pursuant to an order of the court;	1 "cohabitants" means (a) persons who reside together or have resided together in a family, spousal or intimate relationship, or (b) the persons who are the biological or adoptive parents of a child, regardless of their marital status or whether they have lived together at any time;

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
2. Definition of Justice of the Peace	Comments: Principal difference in these clauses is who can designate the JP.				
	2(c) "designated justice of the peace" means a presiding justice of the peace who has been designated for the purposes of this Act;	1(g) "justice of the peace" means a justice of the peace appointed pursuant to the *Provincial Court Act* R.S.P.E.I. 1988, Cap. P-25 and designated under section 14 of this Act. 14 (1) The Lieutenant Governor in Council may designate justices of the peace to hear and determine emergency protection applications pursuant to this Act. (2) Where the Lieutenant Governor in Council designates a justice of the peace to hear emergency protection applications pursuant to this Act, the Lieutenant Governor in Council may specify the place at which and the period during which the justice of the peace may hear those applications. 1996, c.47, s.14; 1998, c.11, s.9.	1 "designated justice of the peace" means a justice of the peace who has been designated by or under section 14; 14 (1) The Chief Judge of the Territorial Court shall designate one or more presiding justices of the peace to hear and determine applications pursuant to this Act. (2) Each Judge of the Territorial Court is ex officio designated justice of the peace.	1(b) "designated justice of the peace" means a justice of the peace designated by the Lieutenant Governor in Council for the purposes of this Act; *Reg* 2 All persons who are designated as presiding justices of the peace under the Justice of the Peace Act are designated justices of the peace for the purposes of the Act and this Regulation.	1 "designated justice of the peace" means a justice of the peace or magistrate designated under section 3 3 The Chief Judge of the Provincial Court of Manitoba may designate justices of the peace and magistrates to hear and determine applications for protection orders under this Act.

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
3 Definition of Domestic Violence	Comments: All jurisdictions cover actual or threatened physical and sexual abuse, forced confinement and damage to property. PEI and Manitoba explicitly include emotional abuse. Yukon's clause 1(e) may apply more to elder abuse. Manitoba's legislation includes stalking activity. PEI's section 2(3) extends the concept of violence, whereas Alberta's final phrasing limits it. See pp. 9-11 of Justice Yard's Manitoba decision in Shaw v. Shaw about the need for adequate evidence of domestic violence in Appendix 3.				
	2(d) "domestic violence" means: (i) any intentional or reckless act or omission that causes bodily harm or damage to property; (ii) any act or threatened act that causes a reasonable fear of bodily harm or damage to property; (iii) forced confinement; or (iv) sexual abuse;	2(1) "Family violence" in relation to a person, is violence against that person by any other person with whom that person is, or has been, in a family relationship. (2) In subsection (1), violence includes (a) any assault of the victim; (b) any reckless act or omission that causes injury to the victim or damage to property; (c) any act or threat that causes a reasonable fear of injury to the victim or damage to property; (d) forced confinement of the victim; (e) actions or threats of sexual abuse, physical abuse or emotional abuse of the victim. (3) For the purposes of this Act a respondent who encourages or solicits another person to do an act which, if done by the respondent, would constitute family violence against the victim, is deemed to have done that act personally. 1996, c.47, s.2.	1 "family violence" means: (a) any intentional or reckless act or omission that causes bodily harm or damage to property; (b) any act or threatened act that causes a reasonable fear of bodily harm or of damage to property; (c) forced confinement; (d) sexual abuse; or (e) depriving a person of food, clothing, medical attention, shelter, transportation, or other necessaries of life.	1(e) "family violence" includes (i) any intentional or reckless act or omission that causes injury or property damage, the purpose of which is to intimidate or harm a family member, (ii) any act or threatened act that causes a reasonable fear of injury or property damage, the purpose of which is to intimidate or harm a family member, (iii) forced confinement, and (iv) sexual abuse, but is not to be construed so as to limit a parent or a person standing in the place of a parent from using force by way of correction toward a child who is under the care of the parent or person if the force does not exceed what is reasonable under the circumstances;	2(1) Domestic violence occurs when a person is subjected by a cohabitant of the person to (a) an intentional, reckless or threatened act or omission that causes bodily harm or damage to property; (b) an intentional, reckless or threatened act or omission that causes a reasonable fear of bodily harm or damage to property; (c) conduct that reasonably, in all the circumstances, constitutes psychological or emotional abuse; (d) forced confinement; or (e) sexual abuse. (2) Stalking occurs when a person, without lawful excuse or authority and knowing that another person is harassed or recklessly as to whether the other person is harassed, repeatedly engages in conduct that causes the other person reasonably, in all the circumstances, to fear for his or her own safety.

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
3. Definition of Domestic Violence (cont'd)					(3) The conduct referred to in subsection (2) includes the person (a) following from place to place the other person or anyone known to the other person; (b) communicating directly or indirectly with or contacting the other person or anyone known to the other person; (c) besetting or watching any place where the other person, or anyone known to the other person, resides, works, carries on business or happens to be; or (d) engaging in threatening conduct directed at the other person or anyone known to the other person. (4) Where, but for mental incompetence or minority, a person would reasonably, in all the circumstances, fear for his or her safety owing to conduct referred to in subsection (2), the person is conclusively deemed to have the fear referred to in that subsection.

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
4. Definition of Residence	Comments: These are essentially the same, but Alberta includes "temporary" situations, and Manitoba includes residences which are vacated because of stalking.				
	2(g) "residence" means a place where a victim normally resides, and includes a residence that a victim has vacated due to domestic violence;	1(n) "residence" means a place where a victim normally resides and includes a residence that a victim has vacated due to family violence.	1 "residence" means a place where a victim normally resides, and includes a residence that a victim has vacated due to domestic violence;	1(i) "residence" means a place where a claimant normally or temporarily resides, and includes a place that a claimant has vacated due to family violence;	1 "residence" means the place where a subject normally resides, and includes a residence that a subject vacates owing to domestic violence or stalking;
5. Definition of Property		1(k) "property" means any interest, present or future, vested or contingent, in real or personal property and includes property that (i) a person owns, or (ii) a person does not own but (A) uses or enjoys, (B) is available for the person's use or enjoyment, (C) is in the person's care or custody, or (D) is at the person's residence.			
6. Types of Order	Comments: The PEI and Manitoba Acts do not specifically refer to warrants permitting entry. The numbers below are simply listings and do not refer to section numbers.				
	(1) emergency intervention order; (2) victim's assistance order; (3) warrant permitting entry.	(1) emergency protection order; (2) victim assistance order	(1) emergency intervention order; (2) victim's assistance order; (3) warrant to authorize entering premises.	(1) emergency protection order; (2) Queen's Bench Protection Order; (3) warrant permitting entry.	(1) protection order; (2) prevention order

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
7. Order No. 1 (Emergency Orders)					
7.1 Who gives order and what constitutes an emergency	Comments: All jurisdictions are essentially the same in allowing JPs to make emergency orders without notice to other parties. Note that for the first four jurisdictions both clauses a) and b) are required in order to support the determination of an emergency situation. Several Saskatchewan cases in Appendix 3 deal with the concepts of "seriousness" and "urgency," notably *McKay-Staruiala* v. *Staruiala*, *Dolgopol* v. *Dolgopol*, and *Bella* v. *Bella*. See also pp. 9-10 of *Shaw* v. *Shaw* in Manitoba.				
	3(1) An emergency intervention order may be granted *ex parte* by a designated justice of the peace where that designated justice of the peace determines that: (a) domestic violence has occurred; and (b) by reason of seriousness or urgency, the order should be made without waiting for the next available sitting of a judge of the court in order to ensure the immediate protection of the victim.	4(1) A justice of the peace, on the application of any person pursuant to subsection (6) in the prescribed form and without notice to any other person, may make an emergency protection order if he or she determines that: (a) family violence has occurred; and (b) the seriousness or urgency of the circumstances merits the making of an order.	4(1) An emergency intervention order may be granted *ex parte* by a designated justice of the peace where that designated justice of the peace has reasonable grounds to conclude that: (a) family violence has occurred or is likely to occur; and (b) by reason of seriousness or urgency, the order should be made forthwith in order to ensure the immediate protection of the victim.	2(1) An order under this section may be granted by a provincial court judge or a designated justice of the peace, on application without notice to the respondent, if the judge or justice of the peace determines (a) that family violence has occurred, and (b) that, by reason of seriousness or urgency, the order should be granted to ensure the immediate protection of the claimant.	4(1) Despite sections 42 (territorial jurisdiction) and 43 (exclusive jurisdiction) of The Court of Queen's Bench Act, an application for a protection order may be made to a designated justice of the peace without notice in the manner prescribed by regulation. 6(1) A designated justice of the peace may grant a protection order without notice where the justice determines on a balance of probabilities that (a) the respondent is stalking the subject or subjecting him or her to domestic violence; and (b) the subject believes that the respondent will continue the domestic violence or stalking.

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
7.1 Who gives order and what constitutes an emergency (cont'd)					(2) Where, but for mental incompetence or minority, a person would, in all the circumstances, reasonably believe that the respondent will continue the domestic violence or stalking, the person is conclusively deemed to have the belief referred to in clause (1)(b). **8A** designated justice of the peace who grants a protection order shall immediately arrange for the preparation of a written copy of it.
7.2 Factors considered	Comments: These clauses are almost identical, except for Yukon's 4(2)(b)				
	3(2) In determining whether an order should be made, the designated justice of the peace shall consider, but is not limited to considering, the following factors: (a) the nature of the domestic violence; (b) the history of domestic violence by the respondent towards the victim;	**4**(2) In determining whether to make an order the justice of the peace shall consider the following factors: (a) the nature of the family violence; (b) the history of family violence by the respondent towards the victim and whether it is more probable than not that the respondent will continue	**4**(2) In determining whether an order should be made, the designated justice of the peace shall consider, but is not limited to considering, the following factors: (a) the nature of the family violence; (b) the history of family violence by the respondent towards the victim;	**2**(2) In determining whether an order should be granted, the provincial court judge or designated justice of the peace must consider, but is not limited to considering, the following: (a) the nature of the family violence; (b) the history of family violence by the respondent towards the claimant;	

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
7.2 Factors considered (cont'd)	(c) the existence of immediate danger to person or property; (d) the best interests of the victim and any child of the victim or any child who is in the care and custody of the victim.	the family violence; (c) the existence of immediat danger to the victim, other persons or property; and (d) the best interests of the victim or any child or other person in the care of the victim.	(c) the existence of immediat danger to persons or property; (d) the best interests of the victim and any child of the victim or any child who is in the care and custody of the victim.	(c) the existence of any immediate danger to persons or property; (d) the best interests of the claimant and any child of the claimant or any child who is in the care and custody of the claimant.	
7.3 Provisions	Comments: These provisions, which are intended to address emergency situations, should also be seen in relation to provisions in the victim assistance order, which are of a longer term or non-emergency nature. The first four provisions of the Saskatchewan Act are fairly closely replicated in all jurisdictions. (Manitoba provides for *de facto* occupation of the residence by removing the respondent.) PEI victim assistance order can include any provisions in the Emergency Protection Order as well as additional provisions. Yukon, Alberta and Manitoba all have several clauses relating to firearms. Manitoba's Act specifically addresses stalking.				
	3(3) An emergency intervention order may contain any or all of the following provisions: (a) a provision granting the victim and other family members exclusive occupation of the residence, regardless of ownership; (b) a provision directing a peace officer to remove, immediately or within a specified time, the respondent from the residence; (c) a provision directing a peace officer to accompany, within a specified time, a specified person to the residence to supervise the removal of personal belongings in order to ensure the protection of the victim;	4(3) An emergency protection order may contain any or all of the following provisions: (a) a provision granting the victim or other family members exclusive occupation of the residence for a defined period regardless of any legal rights of possession or ownership; (b) a provision directing a peace officer to remove the respondent from the residence immediately or within a specified time; (c) a provision directing a peace officer to accompany a specified person, within a specified time, to the residence to supervise the removal of personal belongings; (d) a provision restraining	4(3) An emergency intervention order may contain any or all of the following provisions: (a) a provision granting the victim and other family members exclusive occupation of the residence, regardless of ownership; (b) a provision directing a peace officer to remove, immediately or within a specified time, the respondent from the residence; (c) a provision directing a peace officer to accompany, within a specified time, a specified person to the residence to supervise the removal of personal belongings in order to ensure the protection of the victim;	2(3) An order under this section may include any or all of the following: (a) a provision restraining the respondent from attending at or near or entering any specified place that is attended regularly by the claimant or other family members, including the residence, property, business, school or place of employment of the claimant or family members; (b) a provision restraining the respondent from communicating with or contacting the claimant and other specified persons; (c) a provision granting the claimant and other family members exclusive occupation of the residence for a specified period.	7(1) A protection order granted under subsection 6(1) may include any of the following provisions that the designated justice of the peace considers necessary or advisable for the immediate protection of the subject: (a) a provision prohibiting the respondent from following the subject or a specified person from place to place; (b) a provision prohibiting the respondent from communicating with or contacting the subject or a specified person; (c) a provision prohibiting the respondent from attending at or near, or entering, any place that the subject or a specified person happens to be or

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
7.3 Provisions (cont'd)	(d) a provision restraining the respondent from communicating with or contacting the victim and other specified persons; (e) any other provision that the designated justice of the peace considers necessary to provide for the immediate protection of the victim.	the respondent from directly or indirectly communicating with the victim or other specified person; (e) a provision requiring the respondent to stay away from any place identified specifically or generally in the order; (f) a provision awarding temporary care and custody or day-to-day care of a child to the victim or some other person; (g) a provision granting temporary possession of specified personal property, including an automobile, cheque book, bank card, health services card or supplementary medical insurance cards, identification documents, keys, or other personal effects; (h) a provision restraining the respondent from taking, converting, damaging or otherwise dealing with property; (i) a provision restraining the respondent from committing any further acts of family violence against the victim; (j) a provision prohibiting the publication of the name and address of the victim; (k) any other provision	(d) a provision restraining the respondent from communication with or contacting the victim and other specified persons; (e) a provision requiring the respondent to surrender all firearms in their possession to a peace officer for whatever period up to 180 days that the justice decides, or, where a firearm has been used or its use threatened, the justice shall require the respondent to surrender all firearms in their possession to a peace officer for whatever period up to 180 days that the justice decides. (f) any other provision that the designated justice of the peace considers necessary to provide for the immediate protection of the victim.	regardless of whether the residence is jointly owned or leased by the parties or solely owned or leased by one of the parties; (d) a provision directing a peace officer to remove the respondent from the residence immediately or within a specified time; (e) a provision directing a peace officer to accompany a specified person to the residence within a specified time to supervise the removal of personal belongings in order to ensure the protection of the claimant; (f) a provision directing the seizure and storage of weapons where the weapons have been used or have been threatened to be used to commit family violence; (g) any other provision that the provincial court judge or designated justice of the peace considers necessary to provide for the immediate protection of the claimant.	attends regularly, which may include a place where the subject or person resides, works or carries on business; (d) a provision directing a peace officer to remove, immediately or within a specified time, the respondent from the residence; (e) a provision granting the subject or respondent temporary possession of necessary personal effects; (f) a provision directing a peace officer to accompany, within a specified time, a specified person to the residence to supervise the removal of necessary personal effects in a safe and orderly manner; (g) a provision directing the respondent to deliver up to a peace officer, until a further order is made under the Criminal Code (Canada), the Firearms Act (Canada) or this Act, (i) any firearm, weapon, ammunition or explosive substance that the respondent owns, possesses or controls, and (ii) any document that authorizes the respondent to own, possess or control an item referred to in

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
7.3 Provisions (cont'd)		that the justice of the peace considers necessary to provide for the immediate protection of the victim.			subclause (i); (h) when an order includes a provision under clause (g), a provision that, if the respondent does not deliver up the items referred to in the order, a peace officer may for the purpose of seizing the items enter and search any place where the officer has reason to believe the items are located, with such assistance and force as are reasonable in the circumstances. (2) An item delivered up under clause (1)(g) or seized under clause (1)(h) must be dealt with in accordance with the regulations.
7.4 Notice of order	Comments: These clauses are similar in requiring notice of the JP's order. Provisions for substitutional service, if not evident here, are included under item 17.				
	4(1) A respondent is not bound by any provision in an order until he or she has notice of that provision. (2) Notice of the provisions of an order is to be given in the form and manner prescribed in the regulations.	5(1) A respondent is not bound by any provisions in an emergency protection order until he or she has notice of the order. (2) Notice of an emergency protection order shall be given in the prescribed form and manner.	6(1) A respondent is not bound by any provision in an order until he or she has notice of that provision. (2) Notice of the provisions of an order is to be given in the form and manner prescribed in the regulations.	5(1) A provision of a protection order is not effective in relation to a person unless the person has actual notice of the provision. (2) Notice of the provisions (a) of an emergency protection order must be given in accordance with	17 A protection order and a prevention order take effect on pronouncement, but a respondent is not bound by an order until he or she is given notice of it.

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
7.4 Notice of order (cont'd)	*Reg* 15 A respondent is bound by the provisions in an emergency intervention order as soon as he or she receives a copy of the order, whether or not it was personally served by a peace officer	(3) If, on application to a justice of the peace, it appears that (a) attempts at service or substituted service of the notice on the respondent have failed; and (b) the respondent is intentionally evading service, the justice of the peace may by order dispense with service of the notice and the respondent shall then be deemed to have notice of the emergency protection order. 1996, c.47, s.5. *Reg* 26 Notice of a victim assistance order or order made pursuant to subsection 10(1) of the Act may be given to the respondent and to the victim (a) by oral notice by the judge to any party present in court; or (b) in any manner ordered by the judge to a party not present in court and pursuant to subsection 8(4) of the Act, a copy is to be provided immediately	(3) The court may order that notice of an order be given by substitutional service if reasonable efforts have not resulted in personal service or the respondent is evading or obstructing service. (4) If an agent applied on behalf of the victim, the agent is responsible for serving documents in connection with the proceeding. *Reg* 22(1) For the purposes of section 6 of the Act, notice of a victim's assistance order or an order made pursuant to subsection 7(1) of the Act may be served on the respondent and the victim in a manner similar to those outlined in subsections 11(1), (2), and (3). (2) Where, for any reason, personal service of notice of a victim assistance order on a respondent is impractical, substituted service may be effected by any of the methods specified in subsection 12(3).	the regulations, and (b) of a Queen's Bench protection order must be given in accordance with the Alberta Rules of Court. *Reg* 9 For the purposes of section 5 of the Act, a respondent has actual notice of an emergency protection order if (a) the respondent is personally served with a copy of the order, or (b) there are other circumstances that, in the opinion of the court, provide the respondent with actual notice.	

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
7.4 Notice of order (cont'd)		to a peace officer, to Victim Services and, where a child is identified on the order, to the Director of Child Welfare. (EC558/96; 210/99).			
7.5 Confirmation of order	Comments: Confirmation of an order is different from review of an order (see also item 7.6), although the term "review" is used in both cases. Confirmation refers to the process of the JP's order being confirmed by the court. In all jurisdictions except Manitoba, these clauses provide for an automatic review mechanism, whereby a judge will either confirm the order, vary it, or order a rehearing. In Manitoba the JP's order is registered as a court order, and the respondent has 20 days in which to apply to have the order set aside. Apart from this fundamental difference in process in Manitoba, the other jurisdictions are broadly similar in specifying when the order should be forwarded to the judge, what the judge's considerations are, and if required, procedures for notification and conduct of a rehearing. In all jurisdictions the standard of proof is based on the balance of probabilities, not proof beyond a reasonable doubt. Note that section 6(4)(d) and (e), and 6(8) and (9) of PEI's act were specific amendments pursuant to a decision by PEI's Supreme Court – Trial Division. They require that the applicant attend a rehearing and that the respondent have the opportunity to examine and cross-examine witnesses. See pages 15-18 of Justice Jenkins' decision in Appendix 3. Note that no time limitations are specified within which a re-hearing is to take place, but in Nunavut the scheduling of re-hearings in isolated communities may involve greater elapsed time than in southern jurisdictions.				
	5(1) Immediately after making an emergency intervention order, a designated justice of the peace shall forward a copy of the order and all supporting documentation, including his or her notes, to the court in the prescribed manner. (2) Within three working days of receipt of the order and all supporting documentation by the court, or, if a judge is not available within that period, as soon as one can be made available, a judge shall:	6(1) As soon as practicable after making an emergency protection order and in any event within two working days, the justice of the peace shall forward a copy of the order and all supporting documentation, including notes or tape recordings of the proceedings, to a judge in the prescribed manner. (2) Within five working days of the receipt of the emergency protection order and all supporting documentation by the court, a judge shall review the order and where the judge	5(1) Immediately after making an emergency intervention order, a designated justice of the peace shall forward a copy of the order and all supporting documentation, including his or her notes, to the court in the prescribed manner. (2) Within three working days of receipt of the order and supporting documentation by the court, or, if a judge is not available within that period, as soon as one can be made available, a judge shall:	2(6) An order under this section must indicate the date, time and place at which the order is scheduled for review at a hearing by a justice of the Court of Queen's Bench, which may not be later than seven working days after the granting of the order. 3(1) If a provincial court judge or a designated justice of the peace grants an emergency protection order, the judge or justice of the peace must, immediately after granting the order, forward to the	10(1) A designated justice of the peace who grants a protection order shall immediately forward, in the manner prescribed by regulation, a copy of the order and each document submitted in support of the application to the nearest judicial centre of the court. (2) A protection order and any document forwarded under subsection (1) shall be filed in the court, and when the order is filed it becomes an order of the court and is enforceable as such.

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
7.5 Confirmation of order (cont'd)	(a) review the order in his or her chambers; and (b) confirm the order where the judge is satisfied that there was evidence before the designated justice of the peace to support the granting of the order. (3) For all purposes, including appeal or variation, an order that is confirmed by a judge pursuant to subsection (2) is deemed to be an order of the court granted on an *ex parte* application. (4) Where, on reviewing the order, the judge is not satisfied that there was evidence before the designated justice of the peace to support the granting of the order, he or she shall direct a rehearing of the matter. (5) Where a judge directs that a matter be reheard: (a) the local registrar shall issue a summons, in the form and manner prescribed in the regulations, requiring the respondent to appear at a rehearing before the court; and	is satisfied that there was sufficient evidence before the justice of the peace to support the making of the order, he or she shall (a) confirm the order; or (b) vary the order and the order as confirmed or varied shall be deemed to be an order of the court. (3) Where, on reviewing the emergency protection order, the judge is not satisfied that there was sufficient evidence before the justice of the peace to support the making of the order, the judge shall direct a rehearing of the matter in whole or in part before a judge. (4) Where a judge directs that a matter be reheard, (a) the Registrar shall issue a summons in the prescribed form requiring the respondent to appear before the court; (b) the Registrar shall give notice of the rehearing to the victim and the victim is entitled to attend and may fully participate in the rehearing personally or	(a) review the order in his or her chambers; and (b) confirm the order where the judge is satisfied that there was evidence before the designated justice of the peace to support the granting of the order. (3) For all purposes, including appeal or variation, an order that is confirmed by a judge pursuant to subsection (2) is deemed to be an order of the court granted on an *ex parte* application. (4) Where, on reviewing the order and supporting documentation, the judge is not satisfied that there was evidence before the designated justice of the peace to justify granting the order, he or she shall direct a rehearing of the matter. (5) Where a judge directs that a matter be reheard: (a) the clerk of the court shall issue a summons, in the form and manner prescribed in the regulations, requiring the respondent to appear at the hearing before the court; and	Court of Queen's Bench a copy of the order and all supporting documentation, including any notes. (2) A hearing referred to in section 2(6) must be based on affidavit evidence and any other sworn evidence. (3) The evidence that was before the provincial court judge or designated justice of the peace may also be considered as evidence at the hearing. (4) At the hearing, the justice of the Court of Queen's Bench may, whether or not the claimant or the respondent is in attendance, (a) revoke the order, (b) direct that an oral hearing be held, (c) confirm the order, in which case the order becomes an order of the Court of Queen's Bench, or (d) revoke the order and grant an order under section 4. 1998 cP-19.253	11(1) A respondent against whom a protection order is made may apply to the court within 20 days after being served with the order, or such further time as the court may allow, to have the order set aside. (2) A protection order is not stayed by an application under subsection (1). 12(1) The judge hearing an application to set aside a protection order may confirm or set aside the order or may vary it by deleting clauses or by adding clauses from subsection 7(1) (content of protection order). (2) At a hearing, the onus is on the respondent to demonstrate, on a balance of probabilities, that the protection order should be set aside. (3) The evidence that was before the designated justice of the peace shall be considered as evidence at the hearing, and the subject may present additional evidence. (4) If the parties to a

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
7.5 Confirmation of order (cont'd)	(b) the victim shall be given notice of the rehearing and is entitled, but not required, to attend and may fully participate in the rehearing personally or by an agent. (6) The evidence that was before the designated justice of the peace shall be considered as evidence at the rehearing. (7) At a rehearing, the onus is on the respondent to demonstrate, on a balance of probabilities, why the order should not be confirmed. (8) Where the respondent fails to attend the rehearing, the order may be confirmed in the respondent's absence. (9) At the rehearing, the judge may confirm, terminate or vary the order or any provision in the order.	by counsel; (c) the Registrar shall give notice of the rehearing to a peace officer and to Victim Services in the areas where the alleged family violence occurred and the victim and respondent reside and the peace officer and a representative of Victim Services are entitled to attend the rehearing; (d) the Registrar shall issue a subpoena to the applicant and the applicant is required to attend the rehearing; and (e) where a child is identified on an emergency protection order, the Registrar shall give notice of the rehearing to the Director of Child Welfare. (5) The evidence that was before the justice of the peace shall be considered as evidence at the rehearing. (6) Where the respondent fails to attend the rehearing, the order may be confirmed in the respondent's absence. (7) At the rehearing, the judge may confirm,	(b) the victim shall be given notice of the rehearing and is entitled, but not required, to attend and may fully participate in the rehearing personally or by an agent. (6) In addition to any other evidence, the evidence that was before the designated justice of the peace may be considered as evidence at the rehearing. (7) At a rehearing, the onus is on the respondent to demonstrate, on a balance of probabilities, why the order should not be confirmed. (8) Where the respondent fails to attend the rehearing, the order may be confirmed in the respondent's absence. (9) At the rehearing, the judge may confirm, terminate, or vary the order or any provision in the order, and may include an order for the preservation of privacy. (10) Despite any other provision of this Act, an emergency intervention order continues in effect and is not stayed by a direction for a rehearing under this section.		protection order indicate agreement that it should be set aside but the judge is not satisfied that the subject's agreement is freely and voluntarily given, the judge may adjourn the proceeding to allow the subject to obtain legal or other advice.

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
7.5 Confirm - ation of order (cont'd)		terminate or vary the order. (8) The respondent is entitled to be heard and to examine and cross-examine witnesses at the rehearing. (9) The court may issue a subpoena to the victim. 1996, c.47, s.6; 1998, c.11, s.3. 8(3) At a hearing or rehearing of an application for an emergency protection order or a victim assistance order or review of an emergency protection order or a victim assistance order, the standard of proof shall be on a balance of probabilities.			
7.6 Review of order	Comments: These clauses provide for review of orders after they have been served (Saskatchewan and PEI), confirmed (Yukon) or filed in court (Manitoba). The clauses are very similar across jurisdictions, although Manitoba has a clause specifically addressing situations in which agreement is perceived not to be freely given.				
	6(1) At any time after a respondent has been served with an order, the court, on application by a victim or respondent named in the order, may: (a) make changes in, additions to or deletions from the provisions contained in the order;	10(1) At any time after a respondent has been served with an emergency protection order or a victim assistance order, the court, on application by a victim or respondent named in the emergency protection order or a victim assistance order, may	8(1) At any time after an emergency assistance order has been confirmed or a victim's assistance order has been made the Supreme Court, on application by a victim or a respondent named in the order, may: (a) make changes in,		19(1) The court, on application at any time after a protection order is filed in the court under subsection 10(2) or a prevention order is made under subsection 14(1), may, if satisfied that it is fit and just to do so,

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
7.6 Review of order (cont'd)	(b) decrease or extend the period for which any provision in an order is to remain in force; (c) terminate any provision in an order; or (d) revoke the order. (2) On an application pursuant to subsection (1), the evidence before the designated justice of the peace or the court on previous applications pursuant to this Act shall be considered as evidence. (3) The variation of one or more provisions of an order does not affect the other provisions in the order. (4) Notwithstanding any other provision in this Act, an emergency intervention order continues in effect and is not stayed by a direction for a rehearing pursuant to section 5 or an application pursuant to subsection (1). (5) Any provision in an order is subject to and is varied by any subsequent order made pursuant to any other Act or any Act of the Parliament of Canada.	(a) make changes to, or terminate, any provision of an emergency protection order or a victim assistance order; (b) decrease or extend the period for which any provision in an emergency protection order or a victim assistance order is to remain in force; or (c) revoke the emergency protection order or a victim assistance order. (2) On an application pursuant to subsection (1) (a) the evidence before a justice of the peace on previous applications pursuant to this Act shall be considered evidence; and (b) the respondent has the right to be heard and the right to examine and cross-examine witnesses. (3) The variation of one or more provisions of an emergency protection order or a victim assistance order does not affect the other provisions in the emergency protection order or a victim assistance order. (4) Unless otherwise ordered by the court, an	additions to, or deletions from the provisions contained in the order; (b) decrease or extend the period for which any provision in an order is to remain in force; (c) terminate any provision in an order; or (d) revoke the order. (2) On an application pursuant to subsection (1), in addition to any other evidence, the evidence before the designated justice of the peace or the court on previous applications pursuant to this Act may be considered as evidence. (3) The variation of one or more provisions of an order does not affect the other provisions in the order. (4) Despite any other provision in this Act, an order under this Act, continues in effect and is not stayed by an application under subsection (1). (5) An application under subsection (1) may be made independently of any other proceeding in the court or, so as to avoid		(a) delete or vary any term or condition in the order, or add terms and conditions, which may include any provision mentioned in clauses 14(1)(a) to (p); or (b) revoke the order. (2) If the parties to a protection order or prevention order indicate agreement that it should be varied or revoked but the judge is not satisfied that the subject's agreement is freely and voluntarily given, the judge may adjourn the proceeding to allow the subject to obtain legal or other advice.

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
7.6 Review of order (cont'd)		emergency protection order or a victim assistance order is deemed to be an order of the court and continues in effect and is not stayed by a direction for a rehearing pursuant to section 6 or an application pursuant to subsection (1). (5) Any provision in an emergency protection order or a victim assistance order is subject to and is varied by any subsequent emergency protection order or a victim assistance order made pursuant to any other Act or any Act of the Parliament of Canada. (6) An emergency protection order that has been varied pursuant to clause 6(2)(b) shall be served on the respondent in the prescribed form and manner. (7) Notice to the respondent on an emergency protection order shall be deemed to give the respondent notice of the court's confirmation of the existing emergency protection order and notice of the respondent's right to initiate a court hearing. 1996, c.47, s.10; 1997, c.53, s.1; 1998, c.11, s.6.	inconsistency between orders from different proceedings and to consolidate proceedings, it may be made in another proceeding in the court dealing with the same subject matter between the same parties. (6) Any provision in an order is subject to and is varied by any subsequent order made pursuant to any other Act or any Act of the Parliament of Canada made on the application of the same party. *Reg* 13(1) An application for a review of an Emergency Intervention Order shall be accompanied by an affidavit in which the applicant states concisely the facts and the law relied on by the applicant. (2) The applicant shall file three copies of the completed application form and applicant's affidavit with the clerk of the court. (3) The clerk of the court shall set a hearing date for the application and note that date on the application. (4) The clerk of the court shall file the application in		

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
7.6 Review of order (cont'd)			the court file and shall return one copy to the applicant. 23(1) An application for a review of an Victim's Assistance Order shall be accompanied by an affidavit in which the applicant states concisely the facts and the law relied on by the applicant. (2) The applicant shall file three copies of the completed application form and applicant's affidavit with the clerk of the court. (3) The clerk of the court shall set a hearing date for the application and note that date on the application. (4) The clerk of the court shall file the application in the court file and shall return one copy to the applicant.		

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
7.7 Duration of order	Comments: In some jurisdictions a limitation on the term of the order is not specified. Even in those jurisdictions where a maximum term is specified, it is subject to extension or the discretion of the judge. Note that a decision of the PEI Supreme Court – Trial Division declined to make a determination of the validity of the 90 day maximum duration of an emergency protection order by the JP, but advised that in keeping with its intent to immediately address the emergency, the duration should be for a short period of time, not to exceed 20 days, unless extended by a judge. (See pages 13-15 and page 22 of Justice Jenkins' decision in Appendix 3.) PEI has not amended this section of the Act. The majority of victims in a PEI monitoring study (see Appendix 8, PEI 1998, p. 13) felt the duration was too short. An evaluation in Saskatchewan (Appendix 8, Saskatchewan 1996, p. 26) noted that half the JPs said they grant orders for longer than 30 days in isolated communities because of the difficulty for victims to access legal resources.				
	3(4) An emergency intervention order may be subject to any terms that the designated justice of the peace considers appropriate.	4(4) A justice of the peace may make an emergency protection order subject to such conditions as the justice considers appropriate but the duration of the order shall not exceed 90 days unless otherwise ordered by a judge.	4(4) An emergency intervention order may be subject to any terms that the designated justice of the peace considers appropriate. (5) Subject to subsection 6(1), an emergency intervention order takes effect immediately and the designated justice of the peace may fix a date for its expiry.	2(4) An order under this section may be subject to any terms and conditions that the provincial court judge or designated justice of the peace considers appropriate. 7(1) Subject to subsection (2), a protection order must be granted for such specified duration as the judge considers appropriate in the circumstances. (2) A protection order under this Act may not exceed one year unless it is extended by a further order under subsection (3). (3) The Court of Queen's Bench may, on application, extend the term of a protection order for periods not exceeding one year each. 1998 cP-19.2 s7	

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
8. Order No. 2 (Victim Assistance Order)				(Called Queen's Bench Protection Order)	
8.1 Provisions	Comments: Note that the victim assistance or prevention orders are not seen as emergency orders, so are handled by the courts without involvement of a JP. These provisions replicate some of the provisions in the emergency order, because they may be applicable in either an emergency or long term situation. PEI includes most of the provisions in its emergency order as well as in the victim assistance order. The main provisions in most of the other four jurisdictions cover occupation of the house, communication prohibitions and/or limitations of movement, removing of respondent from house, removal of belongings from house, compensation, use or disposal of property, posting of a bond, recommendation of therapy or counselling, access to children, seizure and storage of weapons. (See appropriateness of this type of order on p.16 of Shaw v. Shaw, a Manitoba decision in Appendix 8.)				
	7(1) Where, on application, the court determines that domestic violence has occurred, the court may make a victim's assistance order containing any or all of the following provisions: (a) a provision granting the victim and other family members exclusive occupation of the residence, regardless of ownership; (b) a provision restraining the respondent from attending at or near or entering any specified place that is attended regularly by the victim or other family members, including the residence, property, business, school or place of employment of the victim and other family members;	7 (1) Where, on application by a victim in the prescribed form to a judge of the court, the judge determines that family violence has occurred, the judge, within ten days of receipt of the application or as soon as possible after that, may make a victim assistance order containing any of the following provisions: (a) a provision referred to in subsection 4(3); (b) a provision for access to children on such terms as the judge may determine, but in making such provision the court shall give paramount consideration to the safety and well-being of the victim and the children; (c) any other provision the judge considers	7(1) Where, on application, the court believes on reasonable grounds that domestic violence has occurred, the court may make a victim's assistance order containing any or all of the following provisions: (a) a provision granting the victim and other family members exclusive occupation of the residence, regardless of ownership; (b) a provision restraining the respondent from attending at or near or entering any specified place that is attended regularly by the victim or other family members, including the residence, property, business, school or place of employment of the victim and other family members;	4(1) An order under this section may be granted by a justice of the Court of Queen's Bench on application if the justice determines that the claimant has been the subject of family violence. (2) An order under this section may include any or all of the following: (a) a provision restraining the respondent from attending at or near or entering any specified place that is attended regularly by the claimant or other family members, including the residence, property, business, school or place of employment of the claimant or family members; (b) a provision restraining the respondent from contacting the	14(1) Where, on application, the court determines that the respondent has stalked the subject or subjected him or her to domestic violence, the court may make a prevention order with any terms or conditions it considers appropriate to protect the subject or remedy the domestic violence or stalking, which may include any of the following: (a) a provision prohibiting the respondent from following the subject or a specified person from place to place; (b) a provision prohibiting the respondent from communicating with or contacting the subject or a specified person;

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
8.1 Provisions (cont'd)	(c) a provision restraining the respondent from making any communication likely to cause annoyance or alarm to the victim, including personal, written or telephone contact with the victim and other family members or their employers, employees or co-workers or others with whom communication would likely cause annoyance or alarm to the victim; (d) a provision directing a peace officer to remove the respondent from the residence within a specified time; (e) a provision directing a peace officer to accompany, within a specified time, a specified person to the residence to supervise the removal of personal belongings in order to ensure the protection of the victim; (f) a provision requiring the respondent to pay the victim compensation for monetary losses suffered by the victim and any child of the victim or any child who is in the care and custody of the victim as a direct result of the domestic violence,	appropriate. (2) The judge may make a victim assistance order subject to such conditions as the judge considers appropriate. (3) The existence of other proceedings between the victim and the respondent does not preclude the judge from making a victim assistance order. 1996, c.47, s.7.	(c) a provision restraining the respondent from making any communication likely to cause annoyance or alarm to the victim, including personal, written or telephone contact with the victim and other family members or their employers, employees or co-workers or others with whom communication would likely cause annoyance or alarm to the victim; (d) a provision directing a peace officer to remove the respondent from the residence within a specified time; (e) a provision directing a peace officer to accompany, within a specified time, a specified person to the residence to supervise the removal of personal belongings in order to ensure the protection of the victim; (f) a provision requiring the respondent to pay the victim compensation for monetary losses suffered by the victim and any child of the victim or any child who is in the care and custody of the victim as a direct result of the	claimant or associating in any way with the claimant and from subjecting the claimant to family violence; (c) a provision granting the claimant and other family members exclusive occupation of the residence for a specified period, regardless of whether the residence is jointly owned or leased by the parties or solely owned or leased by one of the parties; (d) a provision requiring the respondent to reimburse the claimant for monetary losses suffered by the claimant and any child of the claimant or any child who is in the care and custody of the claimant as a direct result of the family violence, including loss of earnings or support, medical and dental expenses, out-of-pocket losses for injuries sustained, moving and accommodation expenses, legal expenses and costs of an application under this Act; (e) a provision granting either party temporary possession of specified personal property, including a vehicle, cheque book, bank	(c) a provision prohibiting the respondent from attending at or near or entering any place that the subject or a specified person regularly attends, which may include a place where the subject or person resides, works or carries on business; (d) subject to any order made under section 13 of The Family Maintenance Act, a provision granting the subject temporary exclusive occupation of the residence, regardless of ownership; (e) a provision directing a peace officer to remove the respondent from the residence immediately or within a specified time; (f) subject to any order made under The Marital Property Act, a provision granting either party temporary possession of specified personal property, which may include vehicles, household furnishings, clothing, medical insurance cards, identification documents and keys; (g) a provision directing a peace officer to accompany, within a specified time, a specified person to the residence to supervise the removal, in a safe and orderly manner, of personal property owned by a party or granted to

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
8.1 Provisions (cont'd)	including loss of earnings or support, medical and dental expenses, out-of-pocket losses for injuries sustained, moving and accommodation expenses, legal expenses and costs of an application pursuant to this Act; (g) a provision granting either party temporary possession of specified personal property, including a vehicle, cheque book, bank cards, children's clothing, medical insurance cards, identification documents, keys or other necessary personal effects; (h) a provision restraining the respondent from taking, converting, damaging or otherwise dealing with property that the victim may have an interest in; (i) a provision recommending that the respondent receive counselling or therapy; (j) a provision requiring the respondent to post any bond that the court considers appropriate for securing the respondent's compliance with the terms of the order; (k) any other provision that the court considers appropriate.		domestic violence, including loss of earnings or support, medical and dental expenses, out-of-pocket losses for injuries sustained, moving and accommodation expenses, legal expenses and costs of an application pursuant to this Act; (g) a provision granting either party temporary possession of specified personal property, including a vehicle, cheque book, bank cards, children's clothing, medical insurance cards, identification documents, keys or other necessary personal effects; (h) a provision restraining the respondent from taking, converting, damaging or otherwise dealing with property that the victim may have an interest in; (i) a provision recommending that the respondent receive counseling or therapy; (j) a provision requiring the respondent to post any bond that the court considers appropriate for securing the respondent's compliance with the terms of the order; (k) any other provision that the court considers	cards, children's clothing, medical insurance cards, identification documents, keys or other necessary personal effects; (f) a provision restraining either party from taking, converting, damaging or otherwise dealing with property that the other party may have an interest in; (g) a provision restraining the respondent from making any communication likely to cause annoyance or alarm to the claimant, including personal, written or telephone contact or contact by any other communication device directly or through the agency of another person, with the claimant and other family members or their employers, employees, co-workers or other specified persons; (h) a provision directing a peace officer to remove the respondent from the residence within a specified time; (i) a provision directing a peace officer to accompany a specified person to the residence within a specified time to supervise the removal of personal belongings in order to ensure the	him or her under clause (f); (h) a provision directing the respondent to deliver up to a peace officer, until a further order under the Criminal Code (Canada), the Firearms Act (Canada) or this Act, (i) any firearm, weapon, ammunition or explosive substance that the respondent owns, possesses or controls, and (ii) any document that authorizes the respondent to own, possess or control an item referred to in subclause (i); (i) when an order includes a provision under clause (h), a provision that, if the respondent does not deliver up the items referred to in the order, a peace officer may for the purpose of seizing the items enter and search any place where the officer has reason to believe the items are located with such assistance and force as are reasonable in the circumstances; (j) a provision requiring the respondent to pay compensation to the subject for any monetary loss suffered by the subject as a result of the domestic violence or stalking, which may include (i) loss of income, (ii) expenses relating to new accommodations, moving, counseling, therapy, medecine and other medical requirements, and security measures, and

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
8.1 Provisions (cont'd)			appropriate. (2) A victim's assistance order may be subject to any terms that the court considers appropriate.	protection of the claimant; (j) a provision requiring the respondent to post any bond that the Court considers appropriate for securing the respondent's compliance with the terms of the order; (k) a provision requiring the respondent, and any other family member the Court considers appropriate, to receive counselling; (l) a provision directing the seizure and storage of weapons where the weapons have been used or have been threatened to be used to commit family violence; (m) any other provision that the Court considers appropriate. 1998 cP-19.2 s4	(iii) legal fees and other costs relating to making an application under this Act; (k) a provision prohibiting the respondent from taking, converting, damaging or otherwise dealing with any property in which the subject has an interest; (l) a provision authorizing the seizure, until further order of the court, of any personal property of the respondent used in furtherance of the domestic violence or stalking; (m) a provision recommending that the respondent receive counselling or therapy;

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
8.1 Provisions (cont'd)					(n) a provision requiring the respondent to post a bond, with or without sureties or a cash deposit, in an amount the court considers appropriate to secure the respondent's compliance with the order; (o) if the subject and respondent reside or have resided in the same premises, a provision prohibiting the respondent from entering upon the premises while the subject is residing there; (p) if an order has been made under clause 10(1)(c) (no entry to spouse's premises) or (d) (non-molestation) of The Family Maintenance Act by a judge of the court, a provision revoking that part of the order. (2) Where an order includes a provision under clause (1)(d), section 13 (occupancy of family residence) of The Family Maintenance Act applies with necessary modifications. (3) An item delivered up or seized pursuant to a prevention order must be dealt with in accordance with the regulations.

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitobα
9. Application for an Order	Comments: These sections may apply to a protection order or prevention (victim assistance) order, or both, depending on the jurisdiction. The three categories of applicants are consistent across jurisdictions, although Manitoba is slightly more restrictive. The category of persons who can apply using telecommunications (as opposed to "in person") varies. Except in limited circumstances, applications on behalf of the victim require the victim's consent. The more detailed filing requirements usually refer to prevention (victim assistance) orders.				
	8(1) An application for an order may be made by: (a) a victim; (b) a member of a category of persons designated in the regulations on behalf of the victim with the victim's consent; or (c) any other person on behalf of the victim with leave of the court or the designated justice of the peace. (2) An application for an emergency intervention order is to be in the form and manner prescribed by the regulations and may include an application by telecommunication. (3) At the hearing of an application for an order, the standard of proof is to be on a balance of probabilities. *Reg* 4(1) An application for an emergency intervention order must be made in person by: (a) a victim; or	4(6) An application for an emergency protection order may be made by (a) a victim; (b) a member of a category of persons designated in the regulations on behalf of, and with the consent of, the victim; or (c) if a victim is incapable of giving consent, any person on behalf of the victim with leave of the justice of the peace. (7) An application for an emergency protection order may be made by telecommunication. 1996, c.47, s.4; 1998,c.11,s.2. *Reg* 4(1) An application for an emergency protection order by (a) a victim; or (b) a person acting on behalf of a victim with leave of a justice of the peace, must be made in person. (2) An application for an emergency protection order by a designated person may be made in person or by telecommunication.	2(1) The following persons may apply for an order under this Act: (a) a victim; (b) a member of a category of persons authorized by the regulations to apply on behalf of a victim with the victim's consent, or (c) any other person on behalf of the victim with leave of a judge of the Supreme Court or of a designated justice of the peace, where the nature of the family violence gives reasonable ground to believe that another person should be allowed to apply on behalf of the victim. (2) Applications must be made in person by the applicant appearing before a designated justice of the peace, unless no designated justice of the peace is readily available. (3) If no designated justice is readily available to hear the application in person, then the application may be made to a designated justice of the peace by telecommunication, and	6(1) An application for a protection order may be made (a) by a person who claims to have been the subject of family violence by a family member, (b) on behalf of a person referred to in clause (a), with that person's consent, by a person or a member of a category of persons designated in the regulations, or (c) by any other person on behalf of a person referred to in clause (a), with leave of the judge. (2) An application for an emergency protection order must be made in accordance with the regulations, and may be made by telecommunication. (3) Unless this Act otherwise provides, notice of an application under this Act must be given to the respondent or claimant, as the case may be. (4) An application to the Court of Queen's Bench under this Act must be made by originating notice unless it is further	4(2) An application for a protection order may be submitted (a) in person, by the subject; (b) in person, by a lawyer or peace officer with the subject's consent; or (c) by telecommunication, by a lawyer or peace officer with the subject's consent and in accordance with section 5. 16(1) The court may at any time after an application for a prevention order is made, on the motion of a party to the application and on notice to the other party, make an interim prevention order on terms and conditions that the court considers fit and just. (2) The court may make an order under subsection (1) on a motion without notice if the court is satisfied that it is necessary or advisable to do so to ensure the safety of the subject. 22 In a proceeding relating to an application for a protection order or prevention order, the subject must disclose to the designated justice of the

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
9. Application for an Order (cont'd)	(b) a person on behalf of the victim with leave of the justice. (2) An application for an emergency intervention order by a designated person may be made in person or by telecommunication. (3) An order based on a telecommunication application has the same effect as an order based on an application made in person. 2 Dec 94 cV-6.02 Reg 1 s4.	(3) An order based on a telecommunication application has the same effect as an order based on an application made in person. (EC558/96). 19(1) An application for a victim assistance order shall consist of (a) the application in the form prescribed in Schedule 5; (b) the Notice of Application in the form prescribed in Schedule 6, to be issued by the Registrar; (c) the applicant's record; and (d) the applicant's factum. (2) The applicant's record shall contain, in consecutively numbered pages arranged in the following order: (a) a table of contents describing each document, including each exhibit, by its nature and date and, in the case of an exhibit, number; (b) a copy of all affidavits in the form prescribed in Schedule 7, and any other material to be used by the applicant on the application;	a facsimile order appearing to have been signed by the justice of the peace is as effective as the original document signed by the justice. (4) The documents in support of an application must be prepared and used substantially as prescribed by the regulations, or as directed by a designated justice if no regulation directs what is to be done. (5) At the hearing of an application for an order, the standard of proof is to be on a balance of probabilities. *Reg* 1(3) For the purposes of subsection 2(2) of the Act, "readily available" means a justice of the peace (a) is in attendance at court during the normal hours of operation during a working day, and (b) is available to hear an application for an order pursuant to the Act within two hours of initial contact. (4) For the purposes of the Act, "working day" means any day on which the courts registry in the Yukon Territory are open for operation.	to proceedings that have been commenced. 1998 cP-19.2 *Reg* 4(1) An application for an emergency protection order must be made in person by (a) a claimant, or (b) a person who has the leave of a judge to make an application on behalf of a claimant. (2) An application for an emergency protection order by a designated person may be made in person or by telecommunication. (3) An order based on a telecommunication application has the same effect as an order based on an application made in person.	peace or the court the details of any order or agreement to which the subject and respondent are parties, including (a) an order or agreement respecting custody or access; (b) an order obtained under clauses 10(1)(c) (no entry to spouse's premises) or (d) (non-molestation) of The Family Maintenance Act; and (c) a protection order or prevention order obtained under this Act. *Reg* 2 An application must be made in writing and contain the following information: (a) the name of the subject; (b) the name of the respondent; (c) if the subject has a lawyer for the purpose of the application, the lawyer's name; (d) a statement that the subject requests a protection order under the Act;

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
9. Application for an Order (cont'd)		(c) a list of the dates of all, if any, previous hearings between the parties resulting in orders under the Act; (d) a copy of any other material that is necessary for the hearing of the application; and (e) a memorandum of authorities listing any relevant case law, statute and regulation that the applicant intends to rely on or refer to, if applicable. (3) The applicant's factum shall consist of a concise statement, without argument, of the facts and law relied on by the applicant. (EC558/96). 20(1) The applicant shall file three copies of the completed application form, applicant's record, and applicant's factum with the Registrar. (2) The Registrar shall commence the originating process by issuing the Notice of Application. (3) The Notice of Application shall be issued by the Registrar's act of dating, signing, and sealing it with the seal of the court and assigning to it a court file number.	4 No fees for the filing or service of documents shall be charged to an applicant. 18(1) An application for a victim's assistance order shall be accompanied by an affidavit in which the applicant states concisely the facts and the law relied on by the applicant. (2) The applicant shall file three copies of the completed application form and the applicant's affidavit with the clerk of the court. (3) The clerk of the court shall set a hearing date for the application and note that date on the application. (4) The clerk of the court shall file the application in the court file and shall return one copy to the applicant. 21(1) The applicant may abandon an application by delivering a notice of abandonment. (2) An applicant who fails to appear at a hearing shall be deemed to have abandoned the application unless the court orders otherwise.		(e) the subject's consent to the application, if the application is submitted by a lawyer or peace officer. 4 A lawyer or peace officer who submits an application must provide any identifying information requested by the designated justice of the peace hearing the application, which may include the name and business or employment address of the lawyer or peace officer, and any other information required to identify or contact him or her. 7(1) If the subject is a minor, an adult person may make an application on behalf of the subject. 8 An application made on behalf of a subject (a) by a committee appointed under The Mental Health Act; or (b) by a substitute decision maker for personal care or a substitute decision maker for property appointed under The Vulnerable Persons Living with a Mental Disability Act;

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
9. Application for an Order (cont'd)		(4) The Registrar shall file one copy of the application, including the Notice of Application when issued, in the court file and shall return one copy to the applicant. (5) The Registrar shall obtain a copy of (a) all relevant information from the hearings listed in the application record; and (b) transcripts of any hearings listed in the application record where the transcript has already been prepared and place them in the court file. (6) Where a written transcript of a previous hearing has not already been prepared and it is impractical to obtain it in a timely manner, the Registrar may place the tape of the hearing in the court file and a transcript, if necessary, may be ordered by the judge. (7) The Registrar shall make the court file available for the court's use. (EC558/96).	(3) Where an application is abandoned or is deemed to have been abandoned, a respondent on whom the notice of application was served is not entitled to the costs of the application, unless the court orders otherwise.		with authority to make an application under this Act, must be supported by a sworn document or sworn testimony that sets out, in addition to the requirements of subsection 3(1), particulars of the appointment and authority. **9** A person who makes an application to a designated justice of the peace for a protection order on behalf of a subject may do so without retaining and instructing a lawyer. **10** A lawyer or peace officer submitting an application by telecommunication shall (a) provide a copy of the application and any supporting documents to the designated justice of the peace by telephone transmission of a facsimile or by delivery in another way specified by the justice; and (b) deliver the original copy of the application and supporting documents to a court office specified by the designated justice of the peace who hears the application.

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
9. Application for an Order (cont'd)					11(1) A lawyer or peace officer who submits an application by telecommunication, or in person when the subject is not present, shall give the subject a copy of the application, supporting documents and any protection order that is granted as soon as practicable after the application is determined. (2) Despite subsection (1), when an application is made by a person on behalf of a subject referred to in section 7 (minor) or 8 (person with committee or substitute decision maker), the lawyer or peace officer shall give the documents referred to in subsection (1) to the person.
10. Confidential Information / Privacy	Comments: All jurisdictions have similar clauses addressing confidentiality of the victim's address, privacy of hearings, and restriction on publication of reports. Manitoba and PEI create specific punishments for contravention of publication of names of parties or witnesses. The Yukon Act specifically requires the hearings to be informal.				
	9(1) The local registrar of the court and a designated justice of the peace shall keep the victim's address confidential at the request of the victim or a person acting on the victim's behalf. (2) The court may order that the hearing of an	11(1) The Registrar and a justice of the peace shall keep the victim's address confidential at the request of the victim or a person acting on behalf of the victim. (2) The court may exclude the public from a hearing, or any part thereof, where,	3(1) Hearings under this Act are to be informal and conducted so as to put participants at ease and to help them understand the proceedings. (2) The clerk of the court and a designated justice of the peace shall keep the victim's address	8(1) The clerks of the Court of Queen's Bench and of the Provincial Court must keep confidential any information relating to the location of a claimant unless the claimant or a person acting on the claimant's behalf consents to the giving of	13(1) No person shall publish or broadcast in a media report the name of a person who is a party or witness in proceedings relating to an application for a protection order or any information likely to identify the person, until the latest of the following:

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
10. Confidential Information / Privacy (cont'd)	application or any part of a hearing be held in private. (3) On the request of the victim, the court may make an order prohibiting the publication of a report of a hearing or any part of a hearing if the court believes that the publication of the report: (a) would not be in the best interests of the victim or any child of the victim or any child who is in the care and custody of the victim; or (b) would be likely to identify, have an adverse effect on or cause hardship to the victim or any child of the victim or any child who is in the care and custody of the victim.	in the opinion of the presiding judge, the possibility of an injustice, harm, hardship or adverse effect to or upon a victim or a child outweighs the desirability of holding the hearing in public. (3) Upon request of the victim, the court may by order prohibit the public disclosure of a report of a hearing or any part of a hearing or prohibit publication of any matter connected with an emergency protection order or victim assistance order, where in the opinion of the court, such disclosure or publication would (a) not be in the best interests of a victim or a child; or (b) be likely to identify, have an adverse effect on or cause hardship to, the victim or child. (4) A court order made pursuant to subsection (3) does not preclude access to court files with the consent of a judge for research or statistical purposes, where there is no public disclosure of individual names or other information that could identify persons named in any report, hearing, or	confidential at the request of the victim or a person acting on the victim's behalf. (3) The court may order that the hearing of an application or any part of a hearing be held in private. (4) On the request of the victim or of the respondent, the court may make an order prohibiting or restricting the publication of a report of a hearing or any part of a hearing if the court believes that the publication of the report would be likely to identify and have an adverse effect on, or cause hardship to the victim or any child of the victim or any child who is in the care and custody of the victim.	the information. (2) The judge may order that all or any member of the public, other than the parties, may be excluded from any hearing under this Act. (3) On the request of the claimant or the respondent or on the initiative of the judge, the judge may make an order prohibiting the publication of a report of a hearing or any part of a hearing if the judge believes that the publication of the report would have an adverse effect on or cause undue hardship to the claimant or respondent or any child of the claimant or respondent or any child who is in the care or custody of the claimant or respondent. 1998 cP-19.2, s.8	(a) dismissal of the application by the designated justice of the peace; (b) 20 days after service upon the respondent of the protection order granted by the designated justice of the peace; (c) where an application is made to the court under subsection 11(1) within 20 days after the respondent is served with the order, determination of the application by the court. (2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction (a) in the case of an individual, to a fine of not more than $5,000. Or imprisonment for a term of not more than two years, or both; and (b) in the case of a corporation, to a fine of not more than $50,000. (3) An officer, director, employee or agent of a corporation who directs, authorizes, assents to, permits or participates or acquiesces in an offence by the corporation under subsection (1) may be convicted of the offence, whether or not the corporation has been prosecuted or convicted.

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
10. Confidential Information / Privacy (cont'd)		other matter prohibited from being disclosed by order made pursuant to this section. 1996, c.47, s.11; 1998,c.11,s.7.			20 No person shall disclose to another person any information in a court document or record relating to a proceeding under this Act that identifies or is liable to identify the home or business address of a subject, other than information contained in the application for a protection order or prevention order or in the order, or that is necessary to enforce the order. 21(1) On the request of a subject or witness in a proceeding relating to a protection order or prevention order, the court may make an order prohibiting the publication or broadcast in a media report of the name of a party or witness or any information likely to identify the subject or witness, if the court is satisfied that the publication or broadcast could endanger the safety or well being of the subject or witness. (2) A person who contravenes an order made under subsection (1) is guilty of an offence and is

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
10. Confidential Information / Privacy (cont'd)					liable on summary conviction to the penalties set out in clauses 13(2)(a) and (b). (3) An officer, director, employee or agent of a corporation who directs, authorizes, assents to, permits or participates or acquiesces in an offence by the corporation under subsection (1) may be convicted of the offence, whether or not the corporation has been prosecuted or convicted.
11. Effect on Property	Comments: These clauses are virtually identical across jurisdictions.				
	10(1) An order does not in any manner affect the title to or an ownership interest in any real or personal property jointly held by the parties or solely held by one of the parties. (2) Where a residence is leased by a respondent pursuant to an oral, written or implied agreement and a victim who is not a party to the lease is granted exclusive occupation of that residence, no landlord shall evict the victim solely on the basis that the victim is not a party to the lease.	12(1) An emergency protection order or victim assistance order does not in any manner affect the title to or an ownership interest in any real or personal property jointly held by the parties or solely held by one of the parties. (2) Where a residence is leased by a respondent pursuant to an oral, written or implied agreement and a victim who is not a party to the lease is granted exclusive occupation of that residence, no landlord shall evict the victim solely on the basis that	10(1) An order does not in any manner affect the title to or an interest in any real or personal property jointly held by the parties or solely held by one of the parties. (2) Where a residence is leased by a respondent pursuant to an oral, written or implied agreement and a victim who is not a party to the lease is granted exclusive occupation of that residence, no landlord shall evict the victim solely on the basis that the victim is not a party to the lease. (3) On the request of a	9(1) A protection order does not in any manner affect the title to or an ownership interest in any real or personal property held jointly by the parties or held solely by one of the parties. (2) Where a residence is leased by a respondent under an oral, written or implied agreement and a claimant who is not a party to the lease is granted exclusive occupation of that residence, no landlord may evict the claimant solely on the basis that the claimant	18 A protection order and a prevention order do not in any manner affect the title to or an ownership interest in real property or personal property held by the parties to the order or by one of the parties. (See also clauses noted under item 18.8 in this summary)

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
11. Effect on Property (cont'd)	(3) On the request of a victim mentioned in subsection (2), the landlord shall advise the victim of the status of the lease and serve the victim with notice of any claim against the respondent arising from the lease and the victim, at his or her option, may assume the responsibilities of the respondent pursuant to the lease.	the victim is not a party to the lease. (3) On the request of a victim referred to in subsection (2), the landlord shall advise the victim of the status of the lease and serve the victim with notice of any claim against the respondent arising from the lease and the victim, at his or her option, may assume the responsibilities of the respondent pursuant to the lease. 1996, c.47, s.12; 1998,c.11,s.7.	victim mentioned in subsection (2), the landlord shall advise the victim of the status of the lease and serve the victim with notice of any claim against the respondent arising from the lease and the victim, at his or her option, may assume the responsibilities of the respondent pursuant to the lease.	is not a party to the lease. (3) On the request of a claimant mentioned in subsection (2), the landlord must advise the claimant of the status of the lease and serve the claimant with notice of any claim against the respondent arising from the lease, and the claimant, at the claimant's option, may assume the responsibilities of the respondent under the lease. 1998 cP-19.2, s.9	
12. Order No.3 (Warrant Permitting Entry)					
12.1 How issued	Comments: Domestic violence legislation for PEI and Manitoba do not include warrants permitting entry. Saskatchewan and the Yukon allow warrants issued by JPs, whereas Alberta allows them only through judges.				
	11(1) A designated justice of the peace may issue a warrant where, on an *ex parte* application by a person designated in the regulations, the designated justice of the peace is satisfied by information on		11(1) A designated justice of the peace may issue a warrant if, on an *ex parte* application by a person who section 2 says may apply for an order, the designated justice of the peace is satisfied by information on oath that there are	10(1) A judge may issue a warrant, on application by a person designated in the regulations and without notice to the respondent, if the judge is satisfied by information on oath that there are reasonable and probable grounds to believe that	

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
12.1 How issued (cont'd)	oath that there are reasonable grounds to believe that: (a) the person who provided the information on oath has been refused access to a cohabitant; and (b) a cohabitant who may be a victim will be found at the place to be searched.		reasonable grounds to believe that: (a) the person who provided the information on oath has been refused access to a cohabitant; and (b) a cohabitant who may be a victim will be found at the place to be searched. *Reg* 24(2) An application for a warrant by a peace officer may be made in person or by telecommunication. (3) Where the justice of the peace determines that a warrant of entry should be made, the justice of the peace shall make that order in accordance with this Regulation and paragraphs 11(1)(a) and (b), and (2)(a), (b) and (c) of the Act.	(a) the person who provided the information on oath has been refused access to a family member, and (b) the family member may have been the subject of family violence and will be found at the place to be searched. *Reg* 11(2) An application for a warrant by a peace officer may be made in person or by telecommunication.	
12.2 Authorization	Comments: The Saskatchewan and Yukon Acts have one extra clause than does Alberta's, authorizing the seizure and removal of potential evidence of victimization.				
	11(2) A warrant issued by a designated justice of the peace authorizes the person named in the warrant to: (a) enter, search and examine the place named in the warrant and any connected premises;		11(2) A warrant issued by a designated justice of the peace authorizes the person named in the warrant to: (a) enter, search, and examine the place named in the warrant and any connected premises;	10(2) A warrant issued by a judge authorizes the person named in the warrant (a) to enter the place named in the warrant and any other structure or building used in connection with the place,	

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
12.2 Authorization (cont'd)	(b) assist or examine the cohabitant; and (c) seize and remove anything that may provide evidence that the cohabitant is a victim. (3) Where the person conducting the search believes on reasonable grounds that the cohabitant may be a victim, that person may remove the cohabitant from the premises for the purposes of assisting or examining the cohabitant.		(b) assist or examine the cohabitant; and (c) seize and remove anything that may provide evidence that the cohabitant is a victim. (3) Where the person conducting the search believes on reasonable grounds that the cohabitant is a victim, that person may remove the cohabitant from the premises for the purposes of assisting or examining the cohabitant.	(b) to search for, assist or examine the family member, and (c) with the family member's consent, to remove the family member from the premises for the purpose of assisting or examining the family member. 1998 cP-19.2 s1	
12.3 Who may apply	Comments: Only peace officers may apply in these three jurisdictions.				
	Reg 20(1) For the purposes of section 11 of the Act, peace officers are designated as a category of persons who may apply for a warrant.		*Reg* 24(1) For the purposes of section 11 of the Act, peace officers are designated as the category of persons who may apply for a warrant.	*Reg* 11(1) For the purposes of section 10 of the Act, peace officers are designated as a category of persons who may apply for a warrant.	
13. Punishment	Comments: The first three clauses are similar but with subtle differences. PEI's clause 16(d) is not included in the Yukon. The penalties are different. Note also other punishment clauses in Manitoba's Act which are shown under item 10 (Confidential Information/Privacy).				
		16.Any person who (a) fails to comply with the provisions of an emergency protection order or a victim assistance order; (b) falsely and maliciously makes an application under this Act,	16(1) A person commits an offense if they: (a) knowingly make a false statement in an application or a hearing under this Act, (b) disobey an order made under this Act, (c) obstruct a peace officer carrying out an		

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
13. Punishment (cont'd)		(c) obstructs any person who is performing any function authorized by an emergency protection order or a victim assistance order; or (d) publishes any information in contravention of an emergency protection order or a victim assistance order, is guilty of an offence and upon summary conviction is liable in the case of a first offence, to a fine of not more than $5,000 or to imprisonment for a term of not more than three months, or to both, and in the case of a second or subsequent offence, to a fine of not more than $10,000 or to imprisonment for a term of not more than two years, or to both. 1995, c.47, s.16; 1998,c.11,s.10 17 A peace officer may arrest without warrant a person the peace officer believes on reasonable and probable grounds to have contravened any terms of an order made pursuant to this Act. 1996, c.47, s.17; 1998,c.11,s.11	order under this Act. (2) A person who commits an offense under subsection (1) is liable on summary conviction to a fine of up to $2,000 and imprisonment for up to six months, or both. (3) For their second or subsequent offense under paragraph (1)(b), a person is liable on summary conviction to a fine of up to $5,000 and imprisonment for up to 12 months, or both.		

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
13. Punishment (cont'd)		18(1) In addition to its powers in respect of contempt, the court may punish by fine or imprisonment, or by both, any wilful contempt of or resistance to its process, rules or orders under this Act, but the fine shall not exceed $5,000 nor shall the term of imprisonment exceed 90 days. (2) An order for imprisonment under subsection (1) may be conditional upon default in the performance of a condition set out in the order. 1996, c.47, s.18.			
14. Designated Persons	Comments: The categories of persons designated to make certain applications is in part a function of the field resources available. As shown under item 9 (application for an order), in Manitoba a lawyer or a peace officer may submit an application for a protection order (with the victim's consent).				
	Reg 3 The following categories of persons are designated for the purposes of clause 8(1)(b) of the Act: (a) program co-ordinators of victims assistance programs	*Reg* 3 For the purposes of clause 8(1)(b) of the Act the following categories of persons are designated: (a) peace officers; (b) Victim Services Workers, and Assistant	*Reg* 2(1) The following categories of persons are designated pursuant to paragraph 2(1)(b) of the Act for the purposes of applying for an Emergency Intervention Order and a	*Reg* 3 The following categories of persons are designated pursuant to section 6(1)(b) of the Act for the purpose of applying for emergency protection orders: (a) a peace officer or a	See item 9 (Application for an Order)

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
14. Designated Persons (cont'd)	that receive funding from the victims' fund established pursuant to The Victims of Crime Act; (b) community case workers funded under tripartite aboriginal policing agreements; (c) employees of the following who are officers pursuant to section 57 of The Child and Family Services Act: (i) The Prince Albert Mobile Crisis Unit Co-operative Ltd.; (ii) Saskatoon Crisis Intervention Service, Inc.; (iii) Mobile Crisis Services, Inc.; (d) peace officers.	Victim Services Workers of the Victim Services Program established under section 7 of the *Victims of Crime Act* R.S.P.E.I. 1998, Cap. V-3.1 (EC558/96); 210/99)	victim's assistance order: (a) a peace officer; (b) a victim services worker employed by the Government of Yukon. (2) The category of persons designated pursuant to paragraph 2(1)(b) of the Act for the purposes of applying for a warrant of entry is peace officers.	person authorized by a police service to assist it in applying for emergency protection orders; (b) a person acting on behalf of an agency authorized by the Minister of Family and Social Services to apply for emergency protection orders.	

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
15. How Evidence Taken	Comments: These sections on evidence are similar in requiring an oath and in allowing telecommunication of evidence and the oath. The first four jurisdictions identify the form of evidence as being the judge or JP's notes or a written statement by the person giving evidence, including tape recordings. Manitoba puts more emphasis on written documents, but in section 5(2) allows for verbal evidence if recorded verbatim. Saskatchewan, PEI and the Yukon stipulate a process for confirming and signing that evidence. PEI and the Yukon identify procedures for handling evidence following an interrupted hearing. The importance of submitting details of existing court orders or agreements between parties (Manitoba reg 3(1)(e)) is emphasized in a Manitoba decision, *Shute* v. *Shute*.				
	Reg 7(1) At the hearing of an application for an emergency intervention order, a justice shall: (a) take the evidence under oath or pursuant to a promise to tell the truth in accordance with section 42 of The Saskatchewan Evidence Act; and (b) ensure that a record of the evidence of each person is made: (i) in legible writing in the form of notes of the justice; or (ii) in legible writing in the form of a statement of the person giving the evidence. (2) For the purposes of subsection (1): (a) an oath may be administered by telecommunication, and (b) an inquiry pursuant to section 42 of The Saskatchewan Evidence Act and a promise to tell the truth pursuant to that section may be made by telecommunication.	*Reg* 7(1) At the hearing of an application for an emergency intervention order, a justice shall: (a) take the evidence under oath or by affirmation in accordance with sections 13 and 14 of the *Evidence Act* R.S.P.E.I. 1988, Cap. E-11; and (b) ensure that a record of the evidence of each person is made: (i) in question and answer format and in legible writing or typewritten in the form of notes of the justice of the peace; or (ii) in legible writing or typewritten in the form of a statement of the person giving the evidence and such evidence may include tape recordings of all or any part of the proceedings. (2) For the purposes of subsection (1), an oath or affirmation may be administered by telecommunication. (EC558/96; 210/99).	*Reg* 7(1) At the hearing of an application for an Emergency Intervention Order, a justice of the peace shall: (a) take the evidence under oath or affirmation; and (b) ensure that a record of the evidence of each person is made, (i) in legible writing in the form of notes made by the justice of the peace or a statement of the person giving evidence, or (ii) by a tape recording of the proceedings. (2) For the purposes of subsection (1), an oath or affirmation may be administered by telecommunication. (3) Where a person gives evidence at a hearing for an Emergency Intervention Order, the justice of the peace shall: (a) have that person read the record containing that person's evidence or have the evidence read back to	*Reg* 5(1) At the hearing of an application for an emergency protection order, a judge' shall (a) take the evidence under oath in accordance with the Alberta Evidence Act, (b) ensure that a record of the evidence of each person is made (i) in legible writing in the form of notes made by the judge or a statement of the person giving the evidence, or (ii) by a tape recording of the proceedings, and (c) schedule a review of the emergency order before a Court of Queen's Bench justice at the judicial centre where the claimant resides or at any other judicial centre determined by the judge to be the most appropriate. (2) For the purposes of subsection (1), an oath may be administered by telecommunication.	4(3) Evidence adduced in support of an application for a protection order must be given under oath. 5(1) A lawyer or peace officer submitting an application for a protection order by telecommunication must (a) at the time possess any document that is to be used in support of the application; (b) communicate the content of the document to the designated justice of the peace in a manner satisfactory to the justice; and (c) transmit the document to the designated justice of the peace as soon as practicable in the manner prescribed by regulation (2) The designated justice of the peace may administer an oath to a person and receive the person's evidence by telephone if the oath and evidence are recorded verbatim. (3) A designated justice of the peace who hears an application for a protection order need not wait for the

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
15. How Evidence Taken (cont'd)	8(1) Where a person gives evidence at a hearing for an emergency intervention order, the justice shall: (a) have that person read the record containing that person's evidence or have the evidence read back to the person who gave it; and (b) sign and date the record containing that person's evidence. (2) Where the evidence of more than one person is taken in writing, the justice may sign at the end of each person's evidence or at the end of all of the evidence. 9 Where a justice begins to hear an application for an emergency intervention order and is unable to continue the hearing for any reason, another justice may: (a) continue hearing the application where the evidence recorded by the previous justice pursuant to section 7 is available for review by the justice; or (b) begin hearing the application as if no evidence had been taken where the evidence recorded pursuant to section 7 is not available for review by the justice. 2 Dec 94 cV-6 02 Reg 1 s9.	8(1) Where a person gives evidence at a hearing for an emergency protection order, the justice of the peace shall: (a) have that person read the record containing that person's evidence or have the evidence read back to the person who gave it; and (b) sign and date the record containing that person's evidence. (2) Where the evidence of more than one person is taken in writing, the justice of the peace may sign the record at the end of each person's evidence or at the end of all of the evidence. (EC558/96). 9 Where a justice of the peace begins to hear an application for an emergency protection order and is unable to continue the hearing for any reason, another justice of the peace may (a) continue hearing the application where the evidence recorded by the previous justice pursuant to section 7 is available for review by the justice of the peace; or (b) continue hearing the application as if no	the person who gave it; and (b) sign and date the record containing that person's evidence. (4) Where the evidence of more than one person is taken in writing, the justice of the peace may sign the record at the end of each person's evidence or at the end of all of the evidence.	("Editor's Note: "judge" in this clause includes a designated justice of the peace.)	transmission of a document under clause (1)(c) before deciding whether to make a protection order. (4) A protection order based on an application submitted by telecommunication has the same effect as a protection order based on an application submitted in person. *Reg* 3(1) An application must be supported by a sworn document or sworn testimony that establishes the following: (a) the nature of the subject's relationship to the respondent; (b) evidence that domestic violence or stalking has occurred; (c) the subject's belief that domestic violence or stalking will continue, unless the subject is mentally incompetent or a minor and subsection 6(2) of the Act (certain persons deemed to have belief) applies; (d) the subject's fear for his or her own safety, if the application is based on stalking, unless the subject is mentally incompetent or a minor and subsection 2(4) of the Act (certain persons

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
15. How Evidence Taken (cont'd)		evidence had been taken where the evidence recorded pursuant to section 7 is not available for review by the justice of the peace. (EC558/96).	the person who gave it; and (b) sign and date the record containing that person's evidence. (4) Where the evidence of more than one person is taken in writing, the justice of the peace may sign the record at the end of each person's evidence or at the end of all of the evidence. 8 Where a justice of the peace begins to hear an application for an Emergency Intervention Order and is unable to continue the hearing for any reason, another justice of the peace may: (a) continue hearing the application where the evidence recorded by the previous justice pursuant to section 7 is available for review by the justice of the peace; or (b) continue hearing the application as if no evidence had been taken where the evidence recorded pursuant to section 7 is not available for review by the justice of the peace.		deemed to have fear) applies; (e) the details of any agreement or court order to which the subject and respondent are parties. (2) Oral evidence adduced in support of an application for a protection order must be recorded. 7(1) If the subject is a minor, an adult person may make an application on behalf of the subject. (2) An application made under subsection (1) must be supported by a sworn document or sworn testimony that sets out the following, in addition to the requirements of subsection 3(1): (b) his or her relationship to the subject; (c) the consent of the person making the application to act on behalf of the subject; (d) a statement that the person making the application has no interest adverse to that of the subject.

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
15. How Evidence Taken (cont'd)					(e) a statement that the person making the application is aware that he or she could be required to pay personally any costs awarded against the person or the subject. 16 Upon the request of a respondent against whom a protection order has been made, the court must provide him or her with access to the application, and the evidence that was received in support of it. 17 On hearing an application to set aside a protection order, a judge of the court may, on considering the evidence that was before the designated justice of the peace, consider it in the form in which it was recorded.

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
16. To whom Copies of Emergency Order Given	Comments: Despite differences in wording in these sections, the description of the distribution of copies of orders is essentially the same. Some of these procedures are also included under item 17 (Serving Documents).				
	Reg 10(1) Form A of the Appendix is prescribed as the form of the emergency intervention order. (2) The order consists of four parts: (a) Part 1 is the original completed by a justice; (b) Part 2 is the copy to be served on the respondent; (c) Part 3 is the copy to be provided to the victim; and (d) Part 4 is the copy to be used by a peace officer for proof of service after Part 2 of the order has been served on the respondent.	*Reg* 10(1) The form of the emergency protection order is prescribed in Schedule 1. (2) The order consists of four parts: (a) Part 1 is the original completed by the justice of the peace and retained for forwarding to the court pursuant to subsection 6(1) of the Act; (b) Part 2 is the copy to be served on the respondent; (c) Part 3 is the copy to be provided to the victim; (d) Part 4 is the copy to be used by a peace officer for proof of service after Part 2 of the order has been served on the respondent. (EC538/96).			*Reg* 12A designated justice of the peace who grants a protection order on a telecommunications application shall ensure that a copy of the order is promptly given to the lawyer or peace officer who submitted the application by delivering it to the lawyer or officer personally or by electronic mail or the telephone transmission of a facsimile. 13 When a subject applies for a protection order in person or a lawyer or peace officer submits an application in the subject's presence, the designated justice of the peace shall give the subject a copy of the application, supporting documents and any protection order that is granted.

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
17. Serving Documents	**Comments:** PEI and Manitoba allow for substituted service by a peace officer without a special order authorizing this manner of service. PEI provides for an order dispensing with service altogether if evidence to justify such an order is provided. The other three jurisdictions require the peace officer to apply to the court for an order for substitutional service. Since Manitoba has no confirmation process (see item 7.5), the peace officer serves both the order and an information sheet explaining to the respondent the procedure for applying to set the order aside.				
	Reg 12(1) The justice shall direct a peace officer to personally serve Part 2 of the emergency intervention order on the respondent as soon as is reasonably possible. (2) The justice shall arrange for Part 3 of the order to be provided to the victim. (3) Except where a peace officer completes Parts 2 to 4 of the order pursuant to subclause 11(b)(ii), a justice shall provide a peace officer with Parts 2 and 4, and Part 3 if necessary, by: (a) forwarding those Parts to a peace officer personally, by courier delivery or by ordinary mail; (b) transmitting those Parts to a peace officer by telecommunication that produces a written record; or (c) directing a peace officer to complete those Parts with the same information and	*Reg* 12(1) The justice of the peace shall direct a peace officer to personally serve Part 2 of the emergency protection order on the respondent as soon as is reasonably possible. (2) The justice of the peace shall arrange for Part 3 of the order to be provided to the victim. (EC558/96). 13(1) Where it is impractical for any reason for a peace officer to personally serve a respondent with an emergency protection order, a peace officer may effect substituted service of an emergency protection order. (2) Substituted service may be made by serving a person who appears to be an adult who (a) resides with the respondent; (b) is a member of the respondent's family; or	*Reg* 3(1) Unless otherwise stipulated in this Regulation, a document may be served by: (a) personal service on the person to be served; or (b) substituted service as ordered by the court. (2) Service of any document effected under this Regulation may be proved: (a) by the oral testimony or affidavit of the person who served it; or (b) by filing a copy of the document with the affidavit of service completed by the peace officer serving the document, or where personal service has been dispensed with, by filing a copy of the order for substituted service and an affidavit proving compliance with the order. 11(1) A peace officer shall: (a) personally serve a copy of an Emergency	5(3) A copy of an order, or of any variation of an order, must be served, (a) in the case of an emergency protection order, in accordance with the regulations, and (b) in the case of a Queen's Bench protection order, in accordance with the Alberta Rules of Court. 1998 cP-19.2 *Reg* 7(1) A copy of an emergency protection order shall be served on the respondent as soon as reasonably possible by a peace officer or by any other person that the judge directs. (2) Where the applicant for the emergency protection order is not the claimant, the applicant shall provide a copy of the emergency protection order to the claimant. 8(1) Where it is impractical for any	9 A protection order must be served in the manner prescribed by regulation. *Reg* 5 On the request of a designated justice of the peace, a person making or submitting an application must provide any information he or she has that could assist in serving documents on the subject or respondent. 6 A subject may specify to a designated justice of the peace that another person may receive documents on behalf of the subject, and when a subject so specifies, service on the specified person is deemed to be service on the subject. 14 A designated justice of the peace who grants a protection order in respect of a subject who is a minor 16 years of age or older shall serve

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
17. Serving Documents (cont'd)	provisions that are contained in Part 1 of the order completed by the justice. (4) An order completed by a peace officer pursuant to this section or section 11 has the same effect as the order completed by the justice. 13(1) Where it is impractical for any reason for a peace officer to personally serve a respondent with an emergency intervention order, a peace officer may apply to a justice, in person or by telecommunication, for an order that authorizes substitutional service of the emergency intervention order. (2) An application for substitutional service is to be supported by evidence setting out why personal service is impractical and proposing a method of service that is likely to bring notice of the order to the respondent. (3) In making an order that authorizes substitutional	(c) is able to bring the order to the respondent's attention. (EC558/96). 14(1) Pursuant to subsection 5(3) of the Act, a peace officer may apply to a justice of the peace for an order dispensing with service of the emergency protection order. (2) An application for an order dispensing with service is to be supported by evidence setting out the peace officer's attempts at personal service or substituted service. (3) An order dispensing with service is to be in the form prescribed in Schedule 2. (4) The justice of the peace shall forward the order dispensing with service and notes, and tape recordings where available, of the evidence set out in subsection (2) to the Registrar of the court nearest to where the victim resides. (EC558/96). 15(1) Where an emergency protection order is varied or terminated pursuant to	Intervention Order on the respondent as soon as is reasonably possible; or (b) personally serve a copy of an Emergency Intervention Order on a person who appears to be at least 16 years of age who (i) resides with the respondent, (ii) is a member of the respondent's family, or (iii) is able to bring the order to the respondent's attention. (2) For the purposes of section 6 of the Act, a respondent has actual notice of an Emergency Intervention Order if (a) the respondent is personally served with a copy of the order, or (b) there are other circumstances that, in the opinion of the court, provide the respondent with actual notice. (3) Where the applicant for the Emergency Intervention Order is not the victim, the applicant shall provide a copy of the order to the victim.	reason for a peace officer or any other person directed by a judge to personally serve a respondent with an emergency protection order, a designated person may apply to a judge, in person or by telecommunication, for an order that authorizes substitutional service of the emergency protection order. (2) An application for substitutional service is to be supported by evidence setting out why personal service is impractical and proposing a method of service that is likely to bring notice of the order to the respondent. (3) In making an order that authorizes substitutional service of an emergency protection order, the judge shall direct, on any terms that the judge considers appropriate, any one or more of the following methods of substitutional service that the judge is satisfied is likely to bring notice of the order to the respondent:	the subject, or shall arrange for the subject to be served, with a copy of the application, supporting documents and any protection order that is granted. 15(1) A peace officer who receives a protection order from a designated justice of the peace shall serve a copy of the order and the information sheet referred to in subsection (2) on the respondent (a) personally; or (b) if the respondent cannot be conveniently found, by leaving the documents with an adult at the respondent's last known home, business or employment address, other than the home, business or employment address of the subject, together with a notice stating that the documents should be forwarded or given to the respondent as soon as possible; and provide proof of service satisfactory to the court.

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
17. Serving Documents (cont'd)	service of an emergency intervention order, the justice shall direct, on any terms that the justice considers appropriate, any of the following methods of substitutional service that the justice is satisfied is likely to bring notice of the order to the respondent: (a) serving a member of the respondent's family or another person who is able to bring the order to the respondent's attention; (b) serving a person with whom the respondent is residing or leaving the order at the place where the respondent is residing; (c) posting the order in a public place; (d) publishing the order in a newspaper; (e) any other method the justice considers appropriate. (4) The justice shall forward the order for substitutional service and his or her notes of the evidence supporting the order to the court at the judicial centre mentioned in section 16.	clause 6(2)(b), subsection 6(7), or subsection 10(1) of the Act, unless the victim or respondent is present in court, the order is to be served: (a) on the victim personally and on the respondent personally by a peace officer; or (b) if it is impractical for any reason to serve either or both of the parties personally, in any other manner ordered by the court, and pursuant to subsection 8(4) of the Act, a copy is to be provided immediately to a peace officer, to Victim Services and, where a child is identified on the order, to the Director of Child Welfare. (2) The form of orders made pursuant to subsection (1) is presented in Schedule 13. (EC558/96; 210/99) 21(1) Pursuant to subsection 13(2) of the Act, the Registrar shall cause the application to be served on the respondent at least five working days before the date of the hearing of the application.	12(1) Where reasonable efforts have not resulted in personal service of an Emergency Intervention Order on a respondent in accordance with section 11, or the respondent is evading or obstructing service, a designated person or a victim may apply to the court, in person or by telecommunication, for an order that authorizes substituted service of the Emergency Intervention Order. (2) An application for substituted service is to be supported by evidence setting out why reasonable efforts have not resulted in personal service or that the respondent is evading or obstructing service and proposing a method of service that is likely to bring notice of the order to the respondent. (3) In making an order that authorizes substituted service of an Emergency Intervention Order, the court shall direct, on any terms that the court considers appropriate, any one or more of the following:	(a) serving a member of the respondent's family or another person who is able to bring the order to the respondent's attention; (b) serving a person with whom the respondent is residing or leaving the order at the place where the respondent is residing; (c) posting the order in a public place; (d) publishing the order in a newspaper; (e) sending the order by electronic mail to the respondent's e-mail address; (f) any other method the judge considers appropriate. 10(1) Service of a document may be proved by the oral testimony or affidavit of the person who served it. (2) A peace officer who serves an emergency protection order on a respondent shall as soon as practicable after service forward the completed affidavit of service with a copy of the order attached as an exhibit to the Clerk of the	(2) The information sheet referred to in subsection (1) must set out the following: (a) information respecting the right of the respondent to apply to the court under subsection 11(1) (application to set aside protection order) of the Act and the time limit for doing so; (b) a statement that an application by the respondent to set aside the order does not stay the operation of the order; (c) information as to how the respondent can gain access to the evidence that was given in support of the application; (d) general information about the penalties for failing to comply with the order.

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
17. Serving Documents (cont'd)	(5) Service of an emergency intervention order in accordance with the terms of the order for substitutional service is deemed to be personal service on the respondent. 14 Where an emergency intervention order is varied or terminated pursuant to subsection 5(9) of the Act, unless the victim or respondent is present in court, the order is to be served: (a) on the victim personally and on the respondent personally by a peace officer; or (b) if it is impractical for any reason to serve either or both of the parties personally, in any other manner ordered by the court. 17 For the purposes of section 4 of the Act, notice of a victim's assistance order or an order made pursuant to subsection 6(1) of the Act may be given to the respondent: (a) in any manner permitted by the Queen's Bench Rules of Court; or	(2) The person who serves the application shall file an affidavit of service in the form prescribed in Schedule B with the Registrar at least three days before the hearing date. (3) Where the respondent has a lawyer, the Registrar may cause service to be made on the respondent's lawyer and that shall be deemed personal service. (EC558/96). 22 Where, for any reason, personal service of an application on a respondent is impractical, substituted service may be effected by any of the methods specified in subsection 13(2). (EC558/96) 27(1) Service of a document may be proved (a) by the oral testimony or affidavit of the person who served it; (b) in the case of the service of an emergency protection order, by filing a copy of Part 4 of the order with the affidavit of service completed by the peace officer serving the	methods of substituted service that the court is satisfied is likely to bring notice of the order to the respondent: (a) posting the order in a public place; (b) publishing the order in a newspaper; (c) sending the order by electronic mail to the respondent's e-mail address; (d) any other method the court considers appropriate. 16 Where an Emergency Intervention Order has been changed, varied, terminated or revoked pursuant to subsection 5(9) or 6(1) of the Act, unless the victim or respondent is present in court, the order is to be served: (a) on the victim personally and on the respondent personally by a peace officer; or (b) if it is impractical for any reason to serve either or both of the parties personally, in any other manner ordered by the court.	Court of Queen's Bench at the judicial centre named pursuant to section 5(1)(c).	

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
17. Serving Document s (cont'd)	(b) by oral notice by the judge if the respondent is present in the court. 18(1) Service of a document may be proved: (a) by the oral testimony or affidavit of the person who served it; or (b) in the case of the service of an emergency intervention order, by filing a copy of Part 4 of the order with the certificate of service completed by the peace officer serving the order. (2) A peace officer who serves an emergency intervention order on a respondent shall: (a) retain Part 4 of the order with the completed certificate of service; and (b) forward a copy of Part 4 of the order with the completed certificate of service to the court at the judicial centre designated by the justice as soon as is practicable after service. (i) by personal delivery; (ii) by ordinary mail; (iii) by courier delivery; or (iv) by telecommunication that produces a written record.	order, or where service has been dispensed with, by filing a copy of the order dispensing with service; or (c) in the case of a victim assistance order, by filing a copy of an affidavit of service in the form prescribed in Schedule B.	19(1) A peace officer shall cause the application to be served on the respondent at least two days before the date of the hearing of the application, unless the court orders otherwise. (2) The person who serves the application shall file an affidavit of service. (3) Where, for any reason, personal service of an application on a respondent is impractical, substituted service may be effected by any of the methods specified in subsection 12(3).		

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
18. Other Clauses in Act	The numbers below refer to the section numbers of the statutes in each jurisdiction where clauses concerning these items appear.				
18.1 Appeals	12		12		25(1)
18.2 Rights	13		13	11	24(1)
18.3 Designation of presiding JOPs	14	14			
18.4 Immunity	15	15	15	12	
18.5 Provisions for Review Contained in Order			4(6)		
18.6 Prohibition re frivolous complaint				13	
18.7 Seizure of Weapons					18-23
18.8 Seizure of property					24-26
19. Other Clauses in Regulations	The numbers below refer to the section numbers of the regulations in each jurisdiction where clauses concerning these items appear.				
19.1 Conduct of hearing of emergency application	*Regs* 5,6,7	*Regs* 5,6	*Regs* 5,6		
19.2 Completion of order	*Regs* 11	*Regs* 11	*Reg* 10	*Reg* 6	
19.3 Where material is forwarded to	*Regs* 16	*Regs* 8(4), 16	*Reg* 15		
19.4 Summons and notice for rehearing	*Regs* 19	*Regs* 17	*Reg* 16,17		
19.5 Mandatory information in order			*Reg* 9		

Appendix A: List of Reference Documents

List of reference documents gathered and consulted in preparing this report.

For convenience they have been listed under sections:

A.1	Statutes and Regulations
A.2	Forms
A.3	Case Law
A.4	Jurisdictional Summaries
A.5	Consultation Materials
A.6	Training Materials
A.7	Public Education and Information Resources
A.8	Research and Evaluations Reports

Note: The documents included here are not intended to be exhaustive. They represent what was readily available in the five jurisdictions at the time materials were being gathered. They are intended to provide a sufficient selection of materials for the government of Nunavut to draw upon when creating its own approach to domestic violence legislation.

A.1 STATUTES AND REGULATIONS

Saskatchewan

- *The Victims of Domestic Violence Act*
- *The Victims of Domestic Violence Regulations*

Prince Edward Island

- *Victims of Family Violence Act*
- *Victims of Family Violence Act Regulations*

Yukon

- *Family Violence Prevention Act*
- *Family Violence Prevention Regulations*

Alberta

- *Protection Against Family Violence Act*
- *Protection Against Family Violence Regulations*

Manitoba

- *The Domestic Violence and Stalking Prevention, Protection and Compensation Act*
- *The Domestic Violence and Stalking Prevention, Protection and Compensation Regulations*

Ontario received first reading September 27, 2000

- *Bill 117 - An Act to Better Protect Victims of Domestic Violence*

A.2 FORMS

Forms have been arranged by jurisdiction and may include some or all of the forms listed below. The name of the form may vary from jurisdiction to jurisdiction. Only four jurisdictions are represented.

Emergency Application and Order

1. Application for Emergency Order
2. Evidence in Support of Application
3. JP Checklist
4. Emergency Order
5. Disposition Sheet of Designated Justice

Service related documents

6. Emergency Order information for RCMP (for serving documents)
7. Affidavit of Service
8. Notice to Forward Documents
9. Order for Substituted Service
10. Order for Dispensing with Service

Documents related to rehearings

11. Application for review of order
12. Affidavit in support of application for review
13. Summons (rehearing)
14. Subpoena to applicant (rehearing)
15. Subpoena to victim (rehearing)
16. Notice to victim (rehearing)
17. Order (after rehearing)

Documents related to Victim Assistance Orders (AKA Prevention Orders)

18. Application for VAO
19. Notice of Application for VAO
20. Affidavit of Support of VAO
21. Affidavit of Service of VAO
22. Notice of Appearance
23. Notice of Abandonment of VAO
24. VAO

Documents related to Warrants to Enter

25. Information to obtain Warrant to Enter
26. Warrant to Enter Premises

Other notices related to Seizures and Suspensions

27. Notice of seizure
28. Guide for Notice
29. Notice of Refusal to Issue or Renew License or Permit
30. Notice of Termination of Suspension or Refusal to Issue or Renew

A.3 CASE LAW

Saskatchewan

- *Myers* v. *Roth*
- *Endicott* v. *Endicott*
- *McKay-Staruiala* v. *Staruiala*
- *Dolgopol* v. *Dolgopol*
- *Bella* v. *Bella*

Prince Edward Island

- A.L.G.C. and Government of Prince Edward Island

Manitoba

- *Shaw* v. *Shaw*

A.4 JURISDICTIONAL SUMMARIES

Overview

- X International Symposium on Victimology, Montreal, Canada

Prince Edward Island

- Victims of Family Violence Act Summary of Implementation Process
- Summary: Victims of Family Violence Act

Yukon

- Yukon – Family Violence Prevention Act

A.5 CONSULTATION MATERIALS

Yukon

- Consultation Statistics
- The Family Violence Prevention Act "Providing Options for Victims"

A.6 TRAINING MATERIALS

Prince Edward Island

- Justices of the Peace & Registrars Training Course Agenda
- One-Day Training Sessions Agenda for Police
- Family Violence: The Issues
- Training Manual for Training Police Training Teams

Yukon

- Types of orders which may assist victims leaving abusive relationships
- Overheads for Community Presentations
- Presentation Outline for General Information Sessions
- Evaluation of Training Form
- The Family Violence Prevention Act: Training Manual

Manitoba

- Law Enforcement Information Sessions
- Bar Legal Information Sessions

A.7 PUBLIC EDUCATION AND INFORMATION RESOURCES

Prince Edward Island

- Islanders' Guide to The Victims of Family Violence Act
- Victim Assistance Orders Information Kit - Section I
- Information Sheet for Rehearings & Review of Orders

Yukon

- The New Family Violence Prevention Act. It Can Help You!
- Victim Assistance Orders Information Kit

Manitoba

- Protection Order Fact Sheet
- Protection Orders & Prevention Orders: Important information for victims of stalking or domestic violence and how to keep safe
- Information for Respondents

A.8 RESEARCH & EVALUATION REPORTS

Saskatchewan

Prairie Research Associates, Inc., *Review of the Saskatchewan Victims of Domestic Violence Act*, Ottawa: Research and Statistics Division, Department of Justice Canada, 1996 (WD1996-6e)

Prairie Research Associates, Inc., *A Further Review of the Saskatchewan Victims of Domestic Violence Act*, Ottawa: Research and Statistics Division, Department of Justice Canada, 1999 (WD1999-1e)

Prince Edward Island

Bradford and Associates, *Final Report: Victims of Family Violence Act Monitoring Study*, Prince Edward Island, 1998.

Yukon

Focus Consultants Inc., *Spousal Assault and Mandatory Charging in the Yukon: Experiences, Perspectives and Alternatives*, Ottawa: Research and Statistics Division, Department of Justice Canada, 1996 (WD1996-3e)